S. HRG. 99-813

SEAFOOD MARKETING COUNCILS ACT

HEARING

BEFORE THE

NATIONAL OCEAN POLICY STUDY

OF THE

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION UNITED STATES SENATE

NINETY-NINTH CONGRESS

SECOND SESSION

ON

S. 2138

TO ESTABLISH A NATIONAL FISHERIES MARKETING COUNCIL TO ENABLE THE UNITED STATES FISHING INDUSTRY TO ESTABLISH A COORDINATED PROGRAM OF RESEARCH, EDUCATION, AND PROMOTION TO EXPAND MARKETS FOR FISHERIES PRODUCTS, AND FOR OTHER PURPOSES

H.R. 2935

TO PROMOTE THE CONSUMPTION OF FISH AND FISH PRODUCTS IN THE UNITED STATES THROUGH THE ESTABLISHMENT OF SEAFOOD MARKETING COUNCILS, AND FOR OTHER PURPOSES

APRIL 17, 1986

Printed for the use of the
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SEAFOOD MARKETING COUNCILS ACT

THURSDAY, APRIL 17, 1986

U.S. SENATE
NATIONAL OCEAN POLICY STUDY
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION
Washington, D. C.

The Committee met, pursuant to notice, at 10:00 a.m., in Room SR-253, Russell Senate Office Building, Hon. Ted Stevens [Vice Chairman of the National Ocean Policy Study] presiding.

Staff members assigned to this hearing: Joe Plesha, professional staff member; and Jim Drewry, minority staff counsel.

OPENING STATEMENT BY SENATOR STEVENS

Senator STEVENS. Good morning. Let me welcome you to this hearing of the Commerce Committee and the National Ocean Policy Study on the establishment of seafood marketing councils. Two marketing bills are being considered today—S. 2138 and H.R. 2935. The Senate bill, my bill, establishes a national seafood marketing council, the House bill would allow the industry to create regional marketing boards.

As many in this room recognize, seafood is undermarketed in our nation. The Regional Fishery Development Foundations and State boards such as the Alaska Seafood Marketing Institute, have been successful, however, many agricultural products have long benefitted from large Federally-sanctioned marketing boards. For fish products, no such mechanism has existed.

It is no secret that seafood does not make up a large part of the overall food consumption of most Americans. In the category of animal proteins, fish consumption is a distant third beyond red meats and poultry. This is especially disturbing when one considers the health benefits that are associated with eating fish.

Recent studies indicate that consumption of seafood significantly reduces the chances of coronary heart disease. Other researchers report that a diet rich in seafood also seems helpful for good vision and brain function, particularly in children. Some doctors hypothesize that even the risk of some cancers may be reduced by eating seafood. Continued scientific research, we believe, will help verify such assertions.

Researchers have known for years of the health attributes of seafood. Education programs inform consumers of seafood's nutritional values, and they are valid roles, health roles, for the Federal Government, in our judgment.

Effective seafood marketing is also critical to our nation's fishing industry. We celebrated the 10th anniversary of the signing of the Magnuson Fishery Conservation and Management Act just this past Sunday. In the 10 years that the United States has exercised exclusive management jurisdiction over fisheries resources within our 200-mile waters, we still have not achieved full utilization of those resources. In 1985, we still allocated over 1.3 metric tons of groundfish to foreign countries. Moveover, over 90 percent of the domestic harvest of groundfish was delivered to foreign floating processors.

Full utilization of these non-traditional fishery resources would mean additional economic contribution of several billion dollars annually to our country. American processors are still struggling to break into these fisheries largely because of uncertain markets. Foreign markets are restricted by tariff and non-tariff trade barriers. Although potentially large, the U.S. market is still not developed for many of these non-traditional species of fish. Effective marketing of these species will be essential to fully Americanize our fishery resources.

The bill I have introduced, S. 2138, will establish a national seafood marketing council to conduct marketing research and promotion programs. It will be funded entirely through the Fishery Loan Fund, a fund which receives its revenues from fees charged to foreigh fishermen operating within our waters. Foreign fishing has occurred largely at the expense of our domestic fishing industry. It is time the fees generated from these operations be put to good use by assisting the U.S. fishing industry.

We are also looking forward to testimony on H.R. 2935, a bill to allow the industry to establish regional marketing councils. Some confusion has developed as a result of an error during House consideration of this measure. The text of the bill transmitted by the House Enrolling clerk to the Senate was not the version that was printed in the Congressional Record at the time the bill as adopted by the House. For purposes of this hearing, the Commerce Committee is interested in receiving testimony on the version of H.R. 2935 that includes an industry refund provision, as we understand this to be the version that the House intended to pass.

Senator Hollings will be along shortly, but in the meantime I will insert his opening statement along with the bills in the record.

[The statement and bills follow:]

OPENING STATEMENT BY SENATOR HOLLINGS

Mr. Chairman, I am pleased that this hearing will give us a chance to talk about seafood marketing and the role the Federal Government should play. Americans are not well known as fish eaters. When you've grown up on seafood as I have, however, you wonder why the rest of the country hasn't gotten the word on the pleasures and benefits of seafood. I know we spend modest amounts of Saltonstall-Kennedy and Sea Grant money on trade shows, consumer demonstrations, and occasional nationwide

advertising efforts like "Seafood USA" and "Catch America" campaigns. And States like mine have similar government-sponsored programs for seafood marketing. But unlike many of its competitors in the protein production business, the fishing industry lacks the cohesiveness and large budgets needed for costly advertising ventures. Perhaps this marketing council idea can help provide the wherewithal and focus that has been missing so far in the marketing of seafood.

Such a move may prove particularly timely now that the health research community is turning up more and more evidence of the dietary value of fish. The recent revelations concerning omega-3 polyunsaturated fatty acids in fish offer a hint of future beneficial uses of fish and byproducts. I very much appreciate the effort of Dr. Wyngaarden and the National Institutes of Health to coordinate the many and varied research pursuits involving the nutritional potential of the oil found in fish of all kinds. As you know, Mr. Chairman, last year we appropriated funds in NOAA's budget so that the Charleston seafood laboratory, which has special expertise, could prepare standardized and purified fish oil for use in this very important health research.

The House bill has the virtue of allowing industry people to decide how they want to structure their councils and what species they want to promote. In addition, because such a council would be financed with the industry's own money, we can probably expect the council to be very careful in deciding on an agenda for promoting the products involved. On the other hand, Mr. Chairman, the national thrust of your bill recognizes the need to promote seafood generally. And it presents a chance to prove to skeptical fishermen and processors that marketing is an activity they should consider spending more money on. I look forward to hearing the discussion of the pros and cons of each bill.

Before closing, I am proud to be able to welcome one of my constituents from South Carolina, Dr. Paul Sandifer. Dr. Sandifer is the director of the Division of Marine Resources, South Carolina Wildlife and Marine Resources Department. In this capacity, Dr. Sandifer oversees a state marketing program which promotes overall awareness and consumption of seafood. His Division's efforts are important as the seafood industry in South Carolina has an annual dockside value of about $20-25 million, predominantly from shrimping. In addition, his personnel are very active in working with the my state's restaurateurs on their need for quality seafood. As you can imagine, the restaurant business is a central element in our tourism industry. Dr. Sandifer's expert testimony on the benefits of a marketing council for the state of South Carolina will be a helpful addition to this hearing.

99TH CONGRESS
2D SESSION

S. 2138

To establish a National Fisheries Marketing Council to enable the United States fishing industry to establish a coordinated program of research, education, and promotion to expand markets for fisheries products, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 5 (legislative day, FEBRUARY 24), 1986

Mr. STEVENS introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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A BILL

To establish a National Fisheries Marketing Council to enable the United States fishing industry to establish a coordinated program of research, education, and promotion to expand markets for fisheries products, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Fisheries Marketing and Promotion Act of 1986".

FINDINGS

SEC. 2. The Congress finds that—

(1) the commercial fishing industry of the United States significantly contributes to the national econo-

my, and could make a greater contribution if fish resources within the United States Exclusive Economic Zone were more fully utilized;

(2) the commercial fisheries of the United States provide significant employment in coastal areas and in processing and distribution centers;

(3) fish contribute an important nutritional component to the American diet;

(4) due to the small and independent nature of the fishing industry and the regional diversification of harvesting and production, no one entity in the fishing industry is capable of securing the level of effort necessary to provide an effective generic marketing program for fish;

(5) Federally supported development programs for commercial fisheries are unable to meet present and future marketing needs;

(6) many fish species are underutilized by the United States fishing industry because of underdeveloped markets; and

(7) the United States fishing industry has the potential to expand greatly its contribution to interstate and foreign commerce, favorably affecting the balance of trade.

PURPOSE

SEC. 3. The purpose of this Act is to—

(1) strengthen the competitive position of the United States commercial fishing industry in the domestic and international marketplace;

(2) encourage the development and utilization of all species of fish available for harvest by the United States fishing industry;

(3) encourage the utilization of domestically produced fish through enhancement of markets, promotion, and public relations;

(4) help the United States fishing industry develop methods to improve quality and efficiency in the marketplace;

(5) educate and inform consumers on the use of fish;

(6) develop better coordination of fisheries marketing and promotion activities with commercial fisheries research and development programs; and

(7) educate and inform the public about the nutritional value of fish in the diet.

DEFINITIONS

SEC. 4. As used in this Act, the term—

(1) "Administrator" means the Administrator of the National Oceanic and Atmospheric Administration;

(2) "Council" means the National Fisheries Marketing Council established in section 5 of this Act;

(3) "consumer education" means actions undertaken to inform consumers on matters related to the consumption of fish;

(4) "fish" means finfish, mollusks, crustaceans, and all other forms of marine and freshwater animal life used for human consumption, and products derived therefrom;

(5) "Fund" means the Fisheries Marketing Fund established in section 9 of this Act;

(6) "harvester" means any individual who is in the business of catching fish for purposes of sale;

(7) "importer" means any person who imports fish into the United States from another country for commercial purposes;

(8) "marketer" means any individual who is in the business of selling fish in wholesale, retail, or restaurant trade, but whose primary business function is not the processing or packaging of fish in preparation for sale;

(9) "marketing and promotion" means an activity aimed at encouraging the consumption of fish or expanding or maintaining commercial markets for fish;

(10) "member" means any person serving on the Council;

(11) "person" means any individual, group of individuals, partnership, corporation, association, cooperative, or any private entity organized or existing under the laws of the United States or any State, Commonwealth, territory or possession of the United States;

(12) "processor" means any individual who is in the business of receiving or otherwise acquiring fish from a harvester, and of preparing or packaging such fish (including fish of the processor's own harvesting) for sale;

(13) "receiver" means any person who acquires fish for sale directly from a harvester;

(14) "research" means research activities related to the marketing of fish; and

(15) "United States" means the several States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands and any other territory, possession, or commonwealth of the United States.

ESTABLISHMENT OF THE NATIONAL FISHERIES MARKETING COUNCIL

SEC. 5. (a) There is established the National Fisheries Marketing Council.

(b)(1) The Council shall be composed of the Administrator (or the Administrator's designee), who shall be a nonvot-

ing member, and fifteen voting members appointed by the Administrator.

(2) Nominations for appointees shall be submitted in a manner prescribed by the Administrator.

(c) The Council shall be comprised of regional representation from the Northeast, Southeast, Pacific, and Alaska regions. The Northeast region shall consist of the States of Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Pennsylvania, Maryland, and Virginia. The Southeast region shall consist of the States of North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, and Texas, the Commonwealth of Puerto Rico, and the territory of the Virgin Islands. The Pacific region shall consist of the States of Idaho, Washington, Oregon, California, and Hawaii, the territories of Guam and American Samoa, and the Commonwealth of the Northern Mariana Islands. The Alaska region shall consist of the State of Alaska.

(d)(1) The voting members of the Council shall be—

(A) three members who reside in or do substantial fishing industry business in the Northeast region;

(B) three members who reside in or do substantial fishing industry business in the Southeast region;

(C) three members who reside in or do substantial fishing industry business in the Pacific region;

(D) three members who reside in or do substantial fishing industry business in the Alaska region;

(E) one member-at-large from an organized labor union, with demonstrated expertise in the United States fishing industry; and

(F) one member-at-large with demonstrated expertise in fresh-water and inland commercial fisheries.

(2) Of the members appointed pursuant to each of paragraphs (1) (A) through (D) of this subsection, one shall be a harvester, one shall be a processor, and one shall be a marketer.

(e) Members of the Council shall be appointed for a term of five years. A vacancy in the Council shall not affect its ability to function. The Administrator shall appoint a new member within sixty days to fill a vacancy in an unexpired term. Any member may remain on the Council beyond that member's term until a successor is appointed.

(f) The Council shall annually elect a Chairman by a majority of those voting, if a quorum is present. Eleven members of the Council shall constitute a quorum, but a lesser number may hold hearings.

(g) The Council shall first meet within one hundred and eighty days after the date of enactment of this Act.

(h) Members of the Council shall serve without compensation, but shall be reimbursed in accordance with section

5703 of title 5, United States Code, for reasonable travel costs and expenses incurred in performing their duties as members of the Council.

FUNCTIONS AND DUTIES OF THE COUNCIL

SEC. 6. (a) The Council shall—

(1) prepare and submit to the Administrator, for the Administrator's review and approval, an annual marketing and promotion plan which contains descriptions of consumer education, research, and other marketing and promotion activities of the Council for the following year;

(2) prepare and submit to the Administrator, for the Administrator's review and approval, an annual budget of the anticipated expenses and disbursements of the Council, including probable costs of consumer education, research, and other marketing and promotion plans or projects;

(3) maintain accounting records of the receipt and disbursement of all funds entrusted to the Council;

(4) maintain such books and records as the Administrator determines appropriate; and

(5) prepare and submit to the Administrator from time to time such reports or proposals as the Administrator or the Council determines appropriate for furthering the purposes and policies of this Act.

(b) Each annual marketing and promotion plan shall be directed to—

(1) increasing the general demand for fish;

(2) encouraging, expanding, or improving the marketing and promotion and utilization of fish; and

(3) improving the dissemination of data collected by consumer education, research, and other marketing and promotion activities.

(c) Consumer education and other marketing and promotion activities of the Council shall contain no reference to a private brand or trade name and shall avoid use of deceptive acts or practices in behalf of fish or with respect to the quality, value, or use of any competing product or group of products.

(d) The Council may employ and determine the salary of an executive director, but such salary shall not exceed Senior Executive Service level 6. The executive director shall have demonstrated expertise in the marketing and promotion of food products and may, without regard to the provisions of title 5, United States Code, with the approval of the Council, select and employ additional staff as necessary.

(e) The Council may enter into agreements to develop and carry out activities authorized under this Act.

DUTIES OF THE ADMINISTRATION

SEC. 7. (a) The Administrator shall—

(1) review and approve the annual marketing and promotion plan and budget within sixty days after submission by the Council;

(2) administer the Fund and withdraw from the Fund such sums as are necessary to carry out the Council's approved marketing and promotion plan and budget;

(3) promulgate regulations necessary to carry out the purposes and policies of this Act;

(4) provide such administrative assistance as the Council may require for purposes of its initial organization and operation; and

(5) make all appointments to the Council within ninety days after the date of enactment of this Act.

VOLUNTARY PAYMENTS

SEC. 8. Any person may make voluntary payments to assist the Council to carry out its annual marketing and promotion plan and annual budget. The Administrator shall deposit such payments into the Fund.

ESTABLISHMENT OF MARKETING FUND

SEC. 9. (a) There is established in the Treasury of the United States a Fisheries Marketing Fund. The Fund shall be available to the Administrator and the Council for the purpose of making payments to carry out the annual marketing and promotion plan and annual budget of the Council under this Act.

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(b) There shall be deposited in the Fund—

(1) subject to appropriations, from the fisheries loan fund established in section 4(c) of the Fish and Wildlife Act of 1956 (16 U.S.C. 742c(c))—

(A) $10,000,000 for fiscal year 1986;

(B) $5,000,000 for fiscal year 1987;

(C) $5,000,000 for fiscal year 1988; and

(D) $5,000,000 for fiscal year 1989;

(2) payments made voluntarily pursuant to section 8 of this Act; and

(3) revenues received from investments made under subsection (c) of this section.

(c) Sums in the Fund that are not currently needed for the purposes of the Fund shall be kept on deposit in appropriate interest-bearing accounts that shall be established by the Secretary of the Treasury, or invested in obligations of, or guaranteed by, the United States. Any revenue accruing from such deposits and investments shall be deposited in the Fund.

(d) Sums in the Fund shall be expended without further appropriations and without fiscal year limitations.

REPORT

SEC. 10. The Administrator shall, not later than March 1, 1989, submit to the Congress a report on the effectiveness of the implementation of this Act in achieving the purposes of this Act.

○

99TH CONGRESS
1ST SESSION

H. R. 2935

IN THE SENATE OF THE UNITED STATES

DECEMBER 11 (legislative day, DECEMBER 9), 1985
Received; read twice and referred to the Committee on Commerce, Science, and Transportation

AN ACT

To promote the consumption of fish and fish products in the United States through the establishment of seafood marketing councils, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Seafood Marketing Councils Act".

SEC. 2. FINDINGS.

The Congress finds that it is in the national interest to promote the consumption of fish.

SEC. 3. PURPOSE.

The purpose of this Act is to—

(1) strengthen the competitive position of the United States commercial fishing industry in the domestic and international marketplace;

(2) encourage the development and utilization of all species of fish available for harvest by the United States industry;

(3) encourage the utilization of domestically produced fish through enhancement of markets, promotion, and public relations;

(4) help the United States fishing industry develop methods to improve quality and efficiency in the marketplace;

(5) educate and inform consumers on the use of fish; and

(6) educate and inform the public about the nutritional value of fish in the diet.

SEC. 4. DEFINITIONS.

As used in this Act—

(1) The term "Administrator" means the Administrator of the National Oceanic and Atmospheric Administration.

(2) The term "council" refers to a seafood marketing council established under section 5.

(3) The term "consumer education" means actions undertaken to inform consumers on matters related to the consumption of fish.

(4) The term "fish" means finfish, mollusks, crustaceans, and all other forms of marine and freshwater animal life used for human consumption.

(5) The term "fish product" means a product that consists, in whole or part, of fish.

(6) The term "Fund" means the Seafood Marketing Fund established by section 10.

(7) The term "marketing and promotion" means an activity aimed at encouraging the consumption of fish or expanding or maintaining commercial markets for fish.

(8) The term "person" means—

(A) any individual who is a citizen or national of the United States;

(B) any group of individuals described in subparagraph (A); or

(C) any partnership, corporation, association, cooperative, or other private entity organized or existing under the laws of the United States or any State, commonwealth, territory, or possession of the United States.

(9) The term "research" means research activities related to the marketing of fish.

(10) The term "sector" means any of the following:

(A) The harvesting sector consisting of persons in the business of catching fish for purposes of sale.

(B) The importing sector consisting of persons in the business of importing fish or fish products, or both, into the United States for consumption therein.

(C) The marketing sector consisting of persons in the business of selling fish or fish products, or both, in the wholesale, retail, or restaurant trade, but whose primary business function is not the processing or packaging of fish or fish products.

(D) The processing sector consisting of persons that acquire fish from harvesters or receivers and whose primary business function is preparing (including conversion into a fish product) or packaging (including fish of the processor's own harvesting) the fish for sale.

(E) The receiving sector consisting of persons in the business of acquiring fish directly from harvesters.

(F) The consumer sector consisting of persons with professional experience in the dissemination of information pertaining to the nutritional benefits and preparation of fish.

(11) The term "United States" means the several States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands and any other territory, possession, or commonwealth of the United States.

SEC. 5. COUNCIL ESTABLISHMENT.

(a) IN GENERAL.—An application for a charter for a seafood marketing council for one or more species of fish and fish products of that species may be filed by persons who meet the requirements specified in accordance with subsection (b)(5) as sector participants.

(b) APPLICATION.—Application for a charter for a council is made by filing with the Administrator the text of a proposed charter in such form as shall be prescribed by the Administrator. The text of a proposed charter must contain such information as the Administrator considers necessary or appropriate for carrying out this Act, including—

(1) the name of the council and a provision proclaiming its establishment;

(2) a declaration of the purposes and objectives of the council;

(3) a description of the species of fish and the fish products for which the council will implement annual marketing and promotion plans under section 6(a)(1)(A);

(4) the identification of each sector that will be represented on the council;

(5) the identification of those sectors (including at a minimum harvesters, receivers, processors and, if subject to assessment, importers) subject to a referendum to establish a council under subsection (e);

(6) a specification, for each sector described under paragraph (5) (other than the consumer sector, if any), of the minimum requirements, as measured by income, volume, or other relevant factors, that a person engaging in business in the sector must meet in order to participate in referenda under subsection (e);

(7) the identification, to the extent practicable by address of place of business, of the persons (hereinafter referred to in this Act as "sector participants") in each sector described in paragraph (5) that meet the requirements specified in paragraph (6); and

(8) a description of the procedures for determining assessment rates under section 8 and the estimated rate or rates that will be imposed by the council on receivers or importers or both during its first year of operation.

The text of a proposed charter may also include provisions setting forth procedures for providing refunds to those sector participants subject to assessment under section 8.

(c) STRUCTURE OF COUNCILS.—The Administrator may not approve a proposed charter filed under subsection (a) unless the proposed council will be consistent with the following requirements:

(1) The council may not have more than twelve voting members, but must include the Administrator or designee of the Administrator as a nonvoting member.

(2) The council must have voting members representing the harvesting, receiving, processing and, if subject to assessment, the importing sectors, but the apportionment of the membership on the council among those sectors, as well as any other sectors represented on the council, must be equitable.

(3) Members of a council are not entitled to a salary for service on the council, but may receive per diem and remuneration for expenses incurred incident to that service.

(4) The quorum required for a council to do business is two-thirds of the members present and voting.

(5) A council must elect a chairman by at least a majority of a quorum.

(6) A vacancy on the council does not affect the ability of the council to function.

(7) A council may employ, and determine the salary of, an executive director who may, with the approval of the council, employ, and determine the salary of, such additional staff as may be necessary.

(d) APPROVAL OF PROPOSED CHARTERS BY ADMINISTRATOR.—(1) Within thirty days after a proposed charter is filed under subsection (b), the Administrator shall determine if the charter—

(A) is accompanied by the signatures or corporate certifications, as the case may be, of sector participants in each sector identified in accordance with subsection (b)(5) who, collectively, accounted for, in the twelve-month period immediately preceding the month in which the proposed charter was filed, not less than 10 per centum of the value of the fish or fish products described in accordance with subsection (b)(3) that were handled by each sector identified in accordance with subsection (b)(5) during that period; and

(B) is consistent with this Act and any other applicable law.

(2) If an affirmative determination cannot be made under paragraph (1) regarding a charter, the Administrator shall notify, in writing, the sector participants who made application of the reasons therefor. A corrected application may thereafter be submitted to the Administrator for approval.

(e) REFERENDA.—(1) Upon making an affirmative determination under subsection (d)(1) regarding a proposed charter, the Administrator, within thirty days after the date of that determination, shall hold a referendum on the adoption of the proposed charter among all sector participants identified in accordance with subsection (b)(7). If the sector participants in each sector who, collectively, accounted for, in the twelve-month period immediately preceding the month in which the proposed charter was filed under subsection (a), 50 per centum or more of the value of the fish or fish products described in accordance with subsection (b)(3) that were handled by that sector during that period approve the proposed charter, the Administrator shall by order establish the council and the proposed charter, as so approved, shall thereafter be treated as its charter.

(b) The Administrator shall pay all costs of the referenda held under this subsection; but within one vear after a

council is established, the council shall reimburse the Administrator for those costs.

(f) COUNCIL MEMBER APPOINTMENTS.—(1) Within thirty days after a council is established under subsection (e), the Administrator shall solicit from the sectors represented on the council nominations for council members.

(2) No individual is eligible for nomination or appointment as a council member unless that individual is knowledgable and experienced with regard to the activities of the sector which that individual will represent on the council.

(3) The Administrator, within thirty days after the close of the thirty-day period in paragraph (1), shall appoint the members of the council from the nominees. The Administrator shall stagger the terms of the initial members appointed to a council so that not more than one-third of the terms of the membership expire in any one year.

(4) A vacancy on a council shall be filled, within sixty days after the vacancy occurs, in the same manner in which the original appointment was made. A member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of that term.

SEC. 6. FUNCTIONS AND POWERS OF COUNCILS.

(a) FUNCTIONS.—(1) Each council shall—

(A) prepare and submit to the Administrator, for review under section 7(a)(1), an annual marketing and promotion plan which contains descriptions of the consumer education, and research, and other marketing and promotion activities of the council for the year concerned;

(B) implement each annual plan after review by the Administrator;

(C) prepare and submit to the Administrator, for review under section 7(a)(1), an annual budget of the anticipated expenses and disbursements of the council, including operating expenses, and probable costs of consumer education, research, and other marketing and promotion plans or projects, the repayment of the costs of each referendum conducted under sections 5(e) and 11(a), and the costs of the collection and enforcement of assessments;

(D) maintain accounting records of the receipts and disbursement of all moneys entrusted to the council;

(E) determine the assessments to be made under section 8;

(F) maintain such books and records as the Administrator determines appropriate;

(G) receive, and report to the Administrator, complaints of violations of orders or rules relating to assessment requirements;

(H) reimburse the Administrator for the actual costs incurred by the Administrator in holding referenda under this Act and for collecting enforcing assessments; and

(I) prepare and submit to the Administrator from time to time such reports or proposals as the Council determines appropriate for furthering the purposes and policies of this Act.

(2) Each annual marketing and promotion plan prepared by a council under paragraph (1)(A) shall be designed to increase the general demand for the fish and fish products described in accordance with section 5(b)(3) by encouraging, expanding, and improving the marketing and promotion and utilization of the fish and fish products, in domestic or foreign markets or both, through consumer education, research, and other marketing and promotion activities.

(3) Consumer education and other marketing and promotion activities carried out by a council under a marketing and promotion plan may not contain references to any private brand or trade name and shall avoid the use of deceptive acts or practices in behalf of fish or fish products or with respect

to the quality, value, or use of any competing product or group of products.

(b) POWERS.—(1) A council—

(A) shall adopt a seal which shall be judicially noticed;

(B) may sue and be sued;

(C) may enter into and perform contracts;

(D) may adopt standards for product quality and operating practices under paragraph (2); and

(E) may collaborate with other councils in establishing and implementing a national marketing and promotion plan for one or more species of fish or fish products.

(2)(A) A council may adopt for each of the harvesting, processing, receiving, or importing sectors that may be represented on it, standards relating to—

(i) the quality of fish and fish products described in accordance with section 5(b)(3); and

(ii) the sector operating procedures relating to the quality of such fish and fish products.

(B) A standard may not be adopted by a council under subparagraph (A) unless approved by the majority of a quorum present and voting and may not take effect with respect to the sector concerned unless approved, in a referendum conducted by the council, by sector participants who,

collectively, accounted for, in the twelve-month period immediately preceding the month in which the referendum is held, not less than one-half of the value of the fish or fish products described in accordance with section 5(b)(3) that were handled by that sector.

(C) Upon the request of the council, a standard approved under subparagraph (B) shall be implemented by the Administrator by order the costs of which shall be borne by the sector participants subject to such standard.

(D) The procedures applicable to the implementation of a standard implemented under this paragraph also apply to the subsequent amendment or termination of the standard.

SEC. 7. DUTIES OF THE ADMINISTRATOR.

(a) DUTIES.—In addition to the duties prescribed under section 5, the Administrator shall—

(1) review, for consistency with the provisions of the Act and other applicable law, annual marketing and promotion plans and budgets within sixty days after their submission by a council;

(2) administer the Fund and withdraw from the Fund and transfer to the councils at their request such monies as are necessary to implement approved marketing and promotion plans and budgets, to cover all other council operating costs, and to reimburse the Administrator under this Act;

(3) collect and enforce the payment of the assessments under section 8;

(4) issue such orders and amendments to such orders as are necessary to implement standards under section 6(b)(2) and to collect assessments;

(5) promulgate regulations necessary to carry out the purposes and policies of this Act;

(6) provide, on a reimbursable basis, such administrative assistance as the councils may request for purposes of their initial organization and operation; and

(7) make all appointments to the councils in accordance with section 5(f).

(b) CONFIDENTIALITY OF INFORMATION.—(1) Sector participants shall make their books and records available to the Administrator for purposes of carrying out subsection (a)(3). Except as provided in paragraphs (2) and (3), any information obtained in carrying out that subsection shall be kept confidential by all officers and employees of the National Oceanic and Atmospheric Administration, and independent accountants and other persons who have access to such information.

(2) If the Administrator or an employee of the United States Government is party to a suit or administrative action involving an order issued under this section, the Administrator may disclose information obtained under subsection (a)(3)

to the extent allowed by the judicial or administrative officer presiding over such suit or action.

(3) This subsection shall not prohibit—

(A) the issuance of general statements based upon—

(i) reports of the number of persons subject to an order which do not identify the information furnished by any person, or

(ii) statistical data based on such statements, or

(B) the publication by direction of an Administrator of the name of any person violating an order relating to the assessments required under section 8(a), and a statement of the particular provisions of such order violated by such person.

(4) Any individual who is required to keep information confidential under this subsection and who violates this subsection shall, upon conviction, be—

(A) subject to a fine of not more than $1,000 or, if the violation was intentional, to imprisonment for not more than one year, or both; and

(B) removed from office if an officer or employee of the council or the National Oceanic and Atmospheric Administration.

SEC. 8. ASSESSMENTS.

(a) IN GENERAL.—A council shall impose such assessments as may be necessary to pay for all expenses incurred by the council in carrying out its functions under this Act.

(b) NATURE OF ASSESSMENTS.—(1) Assessments shall be imposed on sector participants in the receiving sector or the importing sector or both as specified in an approved council charter.

(2) An assessment on sector participants in the receiving sector is in the form of a percentage of the value of the fish described in accordance with section 5(b)(3) when purchased by those participants from fish harvesters.

(3) An assessment on sector participants in the importing sector is in the form of a percentage of the value, as determined under the customs laws, of the fish or fish products described in accordance with section 5(b)(3) when imported into the United States by those participants.

(c) EXCEPTIONS.—A council—

(1) may establish a maximum limit on the amount that any one sector participant may be required to pay under an assessment for any period; and

(2) may not raise or lower the assessment for any period with respect to any sector by more than 0.1 percent above or below the assessment applicable for the immediately preceding period.

(d) ACTIONS BY THE ADMINISTRATOR.—In addition to carrying out the functions under section 7(a)(3), with respect to assessments, the Administrator shall—

(1) assist each council, upon its request and on a reimbursable basis, in determining assessments rates; and

(2) after an assessment is adopted by the council, issue an order establishing that assessment.

(e) VOLUNTARY PAYMENTS.—Any person may make voluntary payments to the Administrator for purposes of assisting a council in carrying out its functions. The Administrator shall deposit all such payments into the Fund.

SEC. 9. PETITION AND REVIEW OF ASSESSMENTS.

(a) IN GENERAL.—Any person subject to an assessment under section 8 may file a written petition with the Administrator, stating that the assessment is not in accordance with law and requesting a modification thereof. Such petition shall be filed within a period prescribed by the Administrator. Such person shall be given an opportunity for a hearing upon such petition, in accordance with regulations issued by the Administrator. After such hearing, the Administrator shall make a ruling upon the petition, and such ruling shall be final, if in accordance with law.

(b) JURISDICTION OF DISTRICT COURTS.—The district courts of the United States, in any district in which such

person is an inhabitant or carries on business, shall have jurisdiction to review such ruling. Any request for such review shall be filed within twenty days after the date of the entry of such ruling. Service of process in such proceedings may be had upon the Administrator by delivering to the Administrator a copy of the request. If the court determines that such ruling is arbitrary and capricious, an abuse of discretion, or not in accordance with law, it shall remand such proceedings to the Administrator with directions either—

(1) to make such ruling as the court determines to be in accordance with law; or

(2) to take such further proceedings as, in the court's opinion, are required by law.

The pendency of proceedings instituted under subsection (a) shall not impede, hinder, or delay the United States or the Administrator from obtaining relief under section 12.

SEC. 10. MARKETING FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a Seafood Marketing Fund. The Fund shall be available to the Administrator and the councils as a revolving fund for the purpose of making payments to carry out the annual marketing and promotion plans and annual budgets of the councils under this Act.

(b) DEPOSITS.—There shall be deposited in the Fund—

(1) assessments collected under section 7(a)(3);

(2) amounts paid voluntarily under section 8(e); and

(3) revenues received from investments made under subsection (d).

(c) DEPOSITS NOT SUBJECT TO APPROPRIATION.—Moneys deposited into the Fund under subsection (a) are not subject to appropriation Acts and may be expended without fiscal year limitation.

(d) USE OF EXCESS MONEYS.—Moneys in the Fund that are not currently needed for the purposes of the Fund shall be kept on deposit in appropriate interest-bearing accounts that shall be established by the Secretary of the Treasury or invested in obligations of, or guaranteed by, the United States. Any revenue accruing from such deposits and investments shall be deposited in the Fund.

SEC. 11. COUNCIL TERMINATION.

(a) PETITION AND REFERENDUM.—A petition to terminate a council may be filed with the Administrator by sector participants in each sector whose participants were eligible to vote in the referendum under section 5(e) establishing the council.

(2) If the Administrator determines that a petition filed under paragraph (1) is accompanied by the signatures, or corporate certifications, as the case may be, of sector participants in each sector referred to in paragraph (1) who, collec-

tively, accounted for, in the twelve-month period immediately preceding the month in which the petition to terminate was filed, not less than 20 per centum of the value of the fish or fish products described in accordance with section 5(b)(3) that were handled by that sector during that period, the Administrator, within thirty days after that determination, shall hold a referendum for termination of the council among all sector participants in each sector referred to in paragraph (1).

(3) If the sector participants who, collectively, accounted for in the period referred to in paragraph (2), not less than 50 per centum of the value of such fish and fish products that were handled during that period by all sectors referred to in paragraph (1) approve a referendum to terminate a council, the Administrator shall by order terminate the council effective as of a date by which the affairs of the council may be concluded on an orderly basis.

(b) RETURN OF ASSESSMENTS.—If a council is terminated, moneys attributable to assessments that remain in the Fund on the date of the termination shall be paid, on a prorated basis, to the sector participants from whom those moneys were collected under section 8.

SEC. 12. ENFORCEMENT.

(a) IN GENERAL.—(1) The district courts of the United States shall have jurisdiction specifically to enforce, and to

prevent and restrain any person from violating, any order or regulation made or issued under this Act.

(2)(A) Except as provided in subparagraph (B), any civil action authorized to be brought under this subsection shall be referred to the Attorney General for appropriate action.

(B) If the Administrator believes that the administration and enforcement of the provisions of this Act would be adequately served by taking administrative action under subsection (c) or providing written notice or warning to any person committing a violation of this Act, the Administrator is not required to refer such violation to the Attorney General.

(c) CIVIL PENALTIES.—(a)(A) Any person who violates any provision of any order or regulation issued by the Administrator under this Act, or who fails or refuses to pay, collect, or remit any assessment required under this Act, may be assessed a civil penalty by the Administrator of not less than $500 nor more than $5,000 for each such violation. Each violation shall be a separate offense. In addition to, or in lieu of, a civil penalty under this subparagraph, the Administrator may issue an order requiring such person to cease and desist from continuing such violation.

(B) No penalty shall be assessed, or cease and desist order issued, under this paragraph unless the affected person is given notice and opportunity for a hearing before the Administrator with respect to such violation.

(C) Any order of the Administrator under this paragraph assessing a penalty or imposing a cease and desist order shall be final and conclusive, unless the affected person files an appeal from the Administrator's order with the appropriate United States court of appeals.

(2)(A) Any person against whom a violation is found and a civil penalty assessed, or cease and desist order issued, under paragraph (1) may obtain review of such action in the United States court of appeals for the circuit in which such person resides or has his place of business or in the United States Court of Appeals for the District of Columbia Circuit by filing a notice of appeal in such court within thirty days after the date of such order and by simultaneously sending a copy of such notice by certified mail to the Administrator.

(B) The Administrator shall promptly file in the court a certified copy of the record upon which such violation was found.

(C) The findings of the Administrator shall be set aside only if found to be unsupported by substantial evidence or if not in accordance with law.

(3) Any person who fails to obey a cease and desist order issued under paragraph (1) after it has become final shall be subject to a civil penalty assessed by the Administrator of not more than $500 for each offense. Each day during which such failure continues shall be a separate offense.

(4)(A) If any person fails to pay an assessment of a civil penalty after it has become final, the Administrator shall refer the matter to the Attorney General.

(B) The Attorney General shall institute appropriate action to recover the amount assessed in a district court of the United States. In such action, the validity and appropriateness of the final order imposing a civil penalty shall not be subject to review.

SEC. 13. INVESTIGATIONS.

(a) IN GENERAL.—The Administrator may make such investigations as the Administrator determines necessary to—

(1) carry out the Administrator's responsibilities under this Act; and

(2) determine whether any person has engaged or is about to engage in any acts or practices which constitute a violation of this Act.

(b) POWERS.—For the purpose of such investigation, the Administrator may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, and documents which are relevant to the inquiry. The attendance of witnesses and the production of any such records may be required from any place in the United States.

(c) ENFORCEMENT.—In case of contumacy of refusal to obey a subpoena by any person, the Administrator may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, to require the attendance and testimony of witnesses and the production of books, papers, and documents. Such court may issue an order requiring such person to appear before the Administrator to produce records or to give testimony relating to the matter under investigation.

SEC. 14. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out those functions of the Administrator under this Act for which council reimbursement is not required.

Passed the House of Representatives December 9, 1985.

Attest: BENJAMIN J. GUTHRIE,

Clerk.

Senator STEVENS. I want to call on the first witness, Carmen Blondin, the Deputy Assistant Administrator for Fisheries Resource Management at NOAA. We are also taking testimony this morning on the reauthorization of the Atlantic Tuna Convention Act, and we would be pleased to have both of your statements, Carmen.

STATEMENT OF CARMEN J. BLONDIN, DEPUTY ASSISTANT ADMINISTRATOR, FISHERIES RESOURCE MANAGEMENT, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE; ACCOMPANIED BY THOMAS BILLY, ACTING DIRECTOR, OFFICE OF INDUSTRY SERVICES, NATIONAL MARINE FISHERIES SERVICE

Mr. BLONDIN. Thank you, Mr. Chairman.

Mr. Chairman, before proceeding, I would like to introduce my colleague to my right, Tom Billy, who is the Acting Director of the Office of Industry Services at the National Marine Fisheries Service. He is our expert in marketing, and hopefully we can deal with all the issues that are before us this morning.

Thank you, Mr. Chairman. First I will proceed with the material dealing with S. 2138, the proposed National Fisheries Marketing and Promotion Act of 1986, as well as the comparisons with H.R. 2935, which would establish seafood marketing councils.

Mr. Chairman, although we support the concept of industry organized and funded efforts in carrying out research and promotion activities to improve the marketing of seafood products, we believe these should be organized and operated by the fishing industry with no Federal Government involvement or expenditure. Each of these bills, in our view, would extend Federal involvement in the marketplace unnecessarily.

The administration supports the concept of strengthening the competitive position of the domestic fishing industry, the marketing, promotion, consumer education, or quality improvement of fishery resources, but believe these should be performed by the industry without intervention of or expenditure by the Federal Government.

The House bill authorizes appropriations for NOAA to administer the programs that the bill would put into place. By comparison, the Senate bill goes even further. The NOAA role under the Senate bill would be to appoint council members, review and approve the council's annual operating plan and budget, and transfer operational funds for the council from the Fisheries Loan Fund. The bill essentially establishes a new Federal agency fully funded with Federal monies.

Again, we believe the best way to achieve the purpose of the bill is for the private sector to undertake its own marketing efforts without Federal involvement or expenditures.

Under the Senate bill the funding would be out of fees collected from the foreign fishing operations in the exclusive economic zone. These fees are currently deposited in the Fisheries Loan Fund, as you know, and further as a part of our 1987 budget proposals NOAA has proposed legislation that would have current and future receipts from the foreign fishing fees deposited into the General Fund. This, of course, in our view, would terminate in the Fisheries Loan Fund in 1986.

The House bill takes a different approach. Rather than establish a single national council using Federal funds it would authorize the fishing industry to organize one or more separate marketing councils for one or more species. The industry members would be assessed a fee on the basis of the value of the product handled. Fees collected would then be used to carry out the programs developed by the council and approved by the NOAA Administrator.

NOAA's role under the House bill would be one of oversight and enforcement of the councils' actions and administration of the program. These proposed responsibilities for NOAA would include approving the councils' charters, conducting hearings and referenda to establish the councils, appointing council members, reviewing and approving annual programs, and enforcing the collection of annual assessments.

The House bill and the Senate bill both address the issue of product quality and we are supportive of industry efforts to enhance seafood quality. We have continually encouraged the U.S. industry to aggressively pursue strategies to review and improve the quality of the seafood products it produces. Indeed, our programs have reflected this to the extent resources were available to do so.

To conclude, Mr. Chairman, NOAA supports the concept of strengthening the competitive position of the domestic fishing industry. We believe the best way to achieve this is for the private sector to take the initiative and conduct its own marketing efforts. The administration believes that the Federal Government should not assess individual businesses a fee to participate in a program to promote and market their product with a Federal official appointing their representatives, approving their budget and work plan, and enforcing the collection of assessments.

The Senate bill goes even further in imposing Federal participation by providing full Federal financing responsibility and the regulation of this private sector activity. We do not believe it is necessary or desirable for the Congress to authorize an activity that industry can undertake without Congressional authorization.

Consequently, Mr. Chairman, I regret that the administration opposes S. 2138 and H.R. 2935 because they rely on Federal involvement and expenditures.

Mr. Chairman, I am prepared to go on with testimony on the Atlantic Tuna Conventions Act, if you would like me to do that at this time, so we can clear the record of at least the testimony of the administration.

Senator STEVENS. Let us keep that separate and let me ask you some questions about the marketing concept.

When the commercial fisheries activities were first introduced into Federal legislation they were in the Department of Agriculture. I am sure you realize that. If the administration opposes this bill, why do we not just then transfer the commercial fisheries to the Department of Agriculture, where they would be automatically under the agricultural statutes that would permit the creation of marketing boards?

Mr. BLONDIN. Well, you pose a very complex question, Mr. Senator. I think certainly that is one approach that may be used. I think the view of the administration is that where the management of fisheries presently occurs is probably the best place in Government because of the other relationship with ocean activities.

Senator STEVENS. Well, when I was in the Interior Department, commercial fisheries was part of the Interior Department and, as a matter of fact, when I was in law school it was part of the Department of

Agriculture. There is no magic for it to be part of the Department of Commerce.

I do not quite understand the statement that we do not really believe as a Federal Government in this kind of activity, when the Department of Agriculture has involvement in a whole series of marketing boards that deal with the very products that compete with seafood. Where is the fairness in the current situation that leaves the individual, small independent fishermen trying to market seafood on a national basis without a federally-sanctioned marketing council, when we have chicken marketing boards, pork marketing boards, beef marketing boards—every kind of food marketing board except for fish products?

Those marketing boards are administered by the Department of Agriculture. At least a portion of the administrative costs are paid by the Department of Agriculture. Originally the entire costs were often supported by the Department of Agriculture. Now, I understand, to a great extent that the industry provides the money for the marketing councils. The money comes from the commodity board members themselves.

The people who are marketing seafood in this country are primarily foreign producers, not our own producers. Canada has a substantial marketing program in the United States. The Japanese have a substantial marketing program in the United States. None of our industry seems to be big enough to compete with either one of them, particularly without a nationally-sanctioned marketing board.

I really question whether Commerce should continue to manage the overall commercial fisheries unless it is willing to be at least as supportive as the Department of Agriculture is for their competing products.

Has Commerce argued with the administration over this position?

Mr. BLONDIN. Well, I think it is fair to say, Mr. Chairman, that certainly the administration reviewed this and is supportive of the basic concept. I think that where the difference comes is in the question of Federal funding, Federal involvement, that would require us, for example, in the House version to be enforcers of the payment of fees. This is felt to be unnecessary Federal intervention in what should be private activities.

Again, as I say, we support this concept, would want to participate in a peripheral sense, but believe that these activities should be carried on by the industry.

Senator STEVENS. Well, I could see some transition similar to the transition of the marketing boards for the agricultural products, but at least in the initiation of this concept it seems that there has to be funds available from somewhere. My bill suggests we use the funds that are currently going into the loan fund, the fees derived from foreign fishermen. There is no question that we have targeted the elimination of those foreign fishermen from our 200-mile zone so that the handwriting would be on the wall that as the transition occurs the domestic industry would have to provide the funds.

On a transitional basis, what is basically wrong with using the funds that currently go into that loan fund?

Mr. BLONDIN. Well, in a broad sense I think that there is not opposition. However, it is again a question of the priorities that we are faced with with a limited amount of funding possibilities, and I think under the circumstances the position of the administration is that this should be used to go into the general funds to help reduce the budget deficit.

Obviously in that process it would impact on fisheries management and other marketing efforts in a general sense rather than specifically.

Senator STEVENS. If we were successful in eliminating the foreign fishermen and the domestic fishermen harvested and marketed some two million metric tons of bottomfish from our 200-mile zone in the United States, all those people would be paying taxes. Foreign fishermen do not pay any taxes. They take their products and go to their own countries and process them and then bring them back and sell them in this market and the revenues to the United States from the fisheries efforts within our 200-mile limit is miniscule. It's de minimis.

We have a proposal that would increase the number of taxpayers, increase the revenue, and for some reason there seems to be a real reluctance. The proposal of the administration to deposit those monies into the Treasury would have no impact on the deficit. They are already Federal funds, so we would not have any deficit reduction.

I am disappointed. I really think we must find somewhere in Government where there is going to be an advocate for fisheries, and I do not see it in NOAA at the present time.

Senator Gorton?

Senator GORTON. No questions for this witness, Mr. Chairman.

Senator STEVENS. Thank you. Do you want to go ahead with your statement on the Tuna Reauthorization Act, please?

Mr. BLONDIN. Thank you, Mr. Chairman.

Again I am pleased to have the opportunity to appear before this Committee to support the reauthorization of the Atlantic Tunas Convention Act of 1975. As you know, this Act implements the International Convention for the Conservation of Atlantic Tunas. ICCAT, as it is called, and enables the United States to fulfill its treaty obligations as a member of ICCAT.

The administration has forwarded to you legislation which would extend the period of authorization from 1986 to 1988. Continued U.S. participation in ICCAT made possible by this reauthorization is recognized as consistent with the U.S. policy of pursuing by international agreement the conservation and management of tunas throughout their range.

As you know, Mr. Chairman, seven countries ratified the Convention which brought ICCAT into existence in 1969, and today there are 22 member countries, and they are listed in my statement. I will not go into them, but they include all of the principal countries fishing in the Atlantic—most of the African, European, North American and other distant water fisheries countries.

Under provisions of the convention, the International Commission for the Conservation of Atlantic Tunas was established to maintain the populations of tuna and tuna-like fish at levels sufficient to permit the maximum sustainable catch for food and other purposes. In order to carry out its management responsibilities, the Commission organized the Standing Committee on Research and Statistics, which we call SCRS, comprised of scientists of member countries. They are responsible for coordinating data collection and stock assessment programs.

The SCRS has worked tirelessly to extend our knowledge of the tuna and billfish resources in the Atlantic Ocean and has produced a formidable scientific record which can be found in the growing number of scientific papers, statistical bulletins and data records published by ICCAT.

Since 1972, the Commission has adopted regulatory proposals for three species of tuna—yellowfin, bigeye and bluefin—based upon an objective and reasonable interpretation of the scientific data available. The bluefin regulations in particular, Mr. Chairman, are an example of the ability of the Commission to act when a resource is in jeopardy. The bluefin tuna, which exhibited declining trends in the early 1970s, now appears to be responding to the restrictive measures that were adopted by the Commission, particularly those since 1982, although there had been some in effect since 1975.

The statement again goes into a great bit of detail on this point and since that will be shown in the record I will not go through it point by point.

In other areas where regulatory proposals have not been adopted, efforts continue to improve stock assessments. For example, at the 1985 meeting, in response to U.S. concerns over deficiencies in the data base for billfish and swordfish stocks, the Commission approved a U.S. proposal that a stock assessment program and budget be presented by the SCRS to the Commission at this year's meeting. Without substantial progress in the international acquisition of basic data, more definitive stock assessments in this area would be difficult to produce.

Under the Atlantic Tuna Conventions Act of 1975, the National Marine Fisheries Service promulgated regulations, including enforcement procedures and gear restrictions. Considerable effort has been expended to promote the broadest possible access among domestic user groups to the bluefin fishery, where catch quotas exist.

In conclusion, Mr. Chairman, I strongly urge continued Congressional support for this international organization and for reauthorization of such funds as may be necessary for the fishery program under the Atlantic Tuna Conventions Act for the years 1987 and 1988.

Thank you, Mr. Chairman.

Senator STEVENS. Thank you. I know of no opposition to that request.

Do you have any questions?

Senator GORTON. No.

Senator STEVENS. We appreciate your appearance, Mr. Blondin, and we hope to work with you as we mark up this bill. My bill passed the Senate last year. The regional concept has come back to us from the House. So we will work—it was not last year; it was two years ago that the Senate bill passed. We do look forward to marking up this bill and getting it to the floor this year.

We appreciate your testimony. Nice to have you with us.

Mr. BLONDIN. Thank you, sir.

Senator STEVENS. Our next witness is Dr. James Wyngaarden of the National Institutes of Health.

STATEMENT OF DR. JAMES B. WYNGAARDEN, DIRECTOR, NATIONAL INSTITUTES OF HEALTH; ACCOMPANIED BY NANCY ERNST, NUTRITION COORDINATOR, NATIONAL HEART, LUNG, AND BLOOD INSTITUTE; AND DR. DAVID LONGFELLOW, CHIEF, CHEMICAL AND PHYSICAL CARCINOGENESIS BRANCH, DIVISION OF CANCER ETIOLOGY, NATIONAL CANCER INSTITUTE

Dr. WYNGAARDEN. Good morning, Mr. Chairman.

Senator STEVENS. Good morning. Would you give us the names of the people who are with you, please?

Dr. WYNGAARDEN. Yes. On my left is Ms. Nancy Ernst, the Nutrition Coordinator of the National Heart, Lung, and Blood Institute, and on my right Dr. David Longfellow, Chief of the Chemical and Physical Carcinogensis Branch of the Division of Cancer Etiology at the National Cancer Institute.

Senator STEVENS. Thank you. Please proceed.

Dr. WYNGAARDEN. Mr. Chairman and members of the Committee, I have a detailed statement for the record. I will abstract it in a shorter period of time, if that is agreeable with you.

I am very pleased to be here to speak to you about seafood and health this morning. This is an important topic addressed by several programs at the National Institutes of Health. The possible association of increased intake of seafood with reduced incidence of certain diseases was first noted by epidemiologists. Epidemiologists are scientists who study patterns of disease in populations and the occurrence of particular associated factors -- environmental, behavioral—that may play a causative role in a disease.

First, consider the comparative amounts of fish eaten by various populations. For the Eskimos of Greenland, the average per capita fish consumption is about 14 ounces per day. In Japan, the average is about 3.5 ounces per day, but consumption reaches 8 or 9 ounces in areas where fish is part of the local economy. By contrast, fish is eaten less than four times per month by the average citizen in the United States.

Then consider that in the United States the number one cause of death is coronary heart disease. By contrast, the death rates from coronary heart disease among the Eskimos of Greenland and among the Japanese are low. Within Japan, the coronary heart disease rate is higher on the mainland than on the island of Okinawa, and higher in

farming areas than in fishing villages. These differences appear to be positively associated with the higher fish intake of Okinawans than the mainlanders and of Japanese fishermen compared to the farmers.

Similar associations have been seen with other disorders, such as hypertension, asthma and arthritis. Today I will discuss briefly the nutritional, biochemical and medical evidence that explains how components of seafood may protect against certain diseases.

The beneficial factor in seafood that has captured so much attention of late is not found in the protein or the carbohydrate but, rather, in the fat. This fat or oil is rich in polyunsaturated fatty acids. These polyunsaturated fatty acids occur in two major forms—omega-3 fatty acids, found in linseed and some seaweeds, and very prominent in some fish and marine animals, such as salmon, mackeral and seal; and omega-6 fatty acids, found in meats and poultry, and predominantly in vegetable oils such as corn or soybean oil.

How might omega-3 fatty acids prevalent in seafood protect against disease? For heart disease, scientists offer several possibilities which are being investigated. The hypotheses relate to blood clotting or thrombosis, to changes in levels of blood cholesterol or blood triglycerides, or to plasma proteins that carry these blood lipids or fatty substances, to blood pressure or to changes in immune function. All of these risk factors might promote the development of heart disease.

The first theory is that substances in fish oil reduce the tendency of blood to clot, that these have something to do primarily with platelet stickiness and that certain of these compounds, such as the omega-6s, promotes platelet stickiness in normal blood clotting. The omega-3s in fish oil act to counter that tendency toward blood stickiness, and that effect helps prevent excessive clotting, which plays a role in atherosclerosis and thrombosis.

Both the omega-6 and omega-3 families of polyunsaturated fatty acids reduce total plasma cholesterol and low density lipoprotein levels, which carry cholesterol. Fish oils, omega-3, cause a dramatic reduction in plasma very low density lipoproteins and in triglyceride levels, particularly in patients with hypertriglyceridemia, which is high blood fat levels. In a number of recent dietary studies which include fish oil as a major source of fat, the low density cholesterol in normal individuals declined, whereas the high density cholesterol was unchanged. And those changes in LDL/HDL ratios are beneficial from the standpoint of cardiovascular disease.

In addition to the biochemical effects on blood platelets and lipids, fish oil has also been reported to reduce blood pressure. Scientists have not yet ascertained the mechanism for this, although an attractive hypothesis is that it is related to metabolic changes in the prostaglandin biosynthetic pathway.

The research community has become increasingly aware of the potential health benefits that may derive from increased consumption of dietary fish oil. But it is important to remember that while research efforts have not focused heavily on this topic in the past, studies of dietary fish oils and their effects on blood clotting, blood lipids, and

coronary heart disease have been under way for many years--perhaps as many as 30 years. Research into relationships between dietary fish oil and other diseases other than coronary heart disease have, however, received attention only in recent years.

Up until 1983, six studies reported observations in individuals with normal and elevated blood lipids who were fed diets enriched with polyunsaturated fatty acids from salmon oil or vegetable oils compared with the control diet with relatively saturated fatty acids. This direct comparison of fish oil and vegetable oil diets provided the first evidence that omega-3 fatty acids possessed properties for lowering blood levels of triglycerides not found in the polyunsaturated omega-6 fatty acids of vegetable oils. Thus, the omega-3 fatty acids appear to be a potential therapeutic benefit in patients with moderate or severe hypertriglyceridemia.

I would like to say a few words now about anti-inflammatory effects of fish oils. A study of several normal individuals who ate fish oil-supplemented diets indicated that fish oil had an anti-inflammatory effect. These effects have been studied in a preliminary way in such diseases as rheumatoid arthritis and systemic erythematosus and psoriasis, and there are beginning indications that a diet supplemented with fish oil may reduce inflammatory responses in those chronic diseases as well.

Now exactly how fish oil promotes an anti-inflammatory reaction is unclear, although fish oils may diminish the release of prostaglandin derivatives which play a role in inflammatory processes, particularly through enhancing antibody synthesis.

I would like to comment briefly on some current research plans at the NIH. We have plans to encourage and stimulate additional studies in omega-3 fatty acid research. As you know, in December 1985 the NIH issued a program announcement, Biological Mechanisms of Omega-3 Fatty Acids in Health and Disease States. More recently, several institutes have announced additional plans for initiatives in the form of a program announcement. For example, the National Institute of Diabetes, Digestive and Kidney Diseases is encouraging research on the use of omega-3 fatty acids as a component of the structured lipid preparations used in parenteral nutrition.

The National Cancer Institute is encouraging basic studies on the role and mechanism of omega-3 fatty acids in cancer prevention. And the National Heart, Lung, and Blood Institute is soliciting additional proposals on omega-3 fatty acids and mechanisms of thrombogenesis and blood vessel atherosclerosis.

We must focus our attention on how best to build upon the existing base of knowledge and to clarify whether dietary fish oils do indeed have a role in preventing disease and what types of research will best eludicate the fish-oil disease prevention relationships. Most of that focus is on the effects of these omega-3 fatty acids in regulating the balance between the products derived from omega-3 and omega-6 fatty acids which are involved in many biological processes.

In summary, Mr. Chairman, I hope this brief review provides a perspective on the recent and most active research areas at the NIH, and we will be pleased to answer any questions you or the Committee may have.

Senator STEVENS. Did NIH support the Framingham Heart Institute studies in the early 1980s, Dr. Castelli's studies?

Dr. WYNGAARDEN. Yes. That has been a project of the National Heart, Lung, and Blood Institute from its beginning.

Senator STEVENS. I do not know if you know it, but after Dr. Castelli made his first preliminary announcement I asked him to come to Washington and we had a luncheon for the Washington press corps. He made a presentation to them of his tentative findings. I was very, I do not know that the word "concerned" is the proper word, but I was interested in the fact that it seemed that after his findings, our country just ignored the concept of the relationship between cholesterol in fish and a reduction in the risk of heart disease.

We later picked up studies from the Scandinavian countries and we picked up some studies from the Japanese and from others, but we do not seem to have followed it up. Can you tell me why NIH really did not follow up that research program with any greater intensity?

Dr. WYNGAARDEN. Well, I think there was active work, starting in about 1965 on various aspects of this topic. One of the reasons why it perhaps did not get under way faster is that one had to wait for some of the basic biochemical knowledge to catch up with the clinical observations. This field of metabolism of the omega-3/omega-6 fatty acids has really just burst on us as an active research field perhaps in the last decade, with the discovery of prostaglandins and the multiple roles that they play in controlling numerous processes including their role control of blood vessel tone, muscle action, their role in induction of pregnancy, and inflammatory mechanisms, the role of some of these in cancer promotion and some in cancer prevention.

So as the field has grown, more and more people have been excited about the role of these compounds in multiple areas of health, and the attention has increased about their beneficial effects in a preventive mode.

Senator STEVENS. I know of no research that has been done that associates the period of consumption with the beneficial impact of fish consumption. I do not know of any research projects that have looked into the what I would consider to be the proper amount of fish consumption in a person's early life as compared to switching to it in a later part of life after we start reading diet magazines and diet books and all those things. There does not seem to be an emphasis on the overall health benefits of seafood consumption.

When I looked into it and we found that there was some delay as far as FDA is concerned in advertising on the part of the seafood industry about the beneficial health aspects of fish consumption, we were told that the FDA was waiting for you, waiting for NIH to complete its seafood research projects. Now your statement mentions that you have some planned expansion of seafood research. Is there a timetable for that?

Dr. WYNGAARDEN. Yes, sir. That is under way now. I can give you some figures of recent growth in this area without any particular stimulation. In 1983, we funded somewhere around $600,000 of research in this area, in 1984 about $900,000. In 1985 it is approaching $2 million, and in 1986 it will be well above that. That is all prior to these special announcements of interest.

There is, for example, right now a group of 8 or 10 projects awaiting review by the National Heart, Lung, and Blood Advisory Council.

Senator STEVENS. What is the total budget this year for the Heart, Lung and Blood Institute research program?

Dr. WYNGAARDEN. The total program is in the neighborhood of $800 million.

Senator STEVENS. And the seafood research is going to take about $2 million?

Dr. WYNGAARDEN. Yes, but that is just that which we can identify specifically as seafood research. The science base underneath that would be very much larger.

Senator STEVENS. I am also on the Appropriations Subcommittee that deals with NIH; perhaps I can ask some questions there concerning that allocation. But it does seem to me that the public seems to be waiting for a real confirmation of the assertions that are being made. As I indicated, I do not think we are going get those confirmations from FDA until your institution has pursued further your seafood research program.

Dr. WYNGAARDEN. There is a great deal of interest in this field, not only in the National Heart, Lung, and Blood Institute but in almost every other one.

Senator STEVENS. I noted I read a recent book written by—what was the name of that fellow? He is the trainer for one of the leading tennis players in the country. He wrote the book "Eat to Win". He makes the repeated assertion in his book concerning the health benefits of seafood in the diet, as do other people in some of their diet books. It is interesting that those kind of books can be published but the industry cannot advertise seafood's nutritional value.

One of the reasons you are here is the whole area of whether or not we can have marketing of our seafood on a national basis that makes our people aware of the beneficial aspects of seafood consumption. I am sure you do not address that, but are you aware of the connection between the delay in such advertising and the delay in your research project?

Dr. WYNGAARDEN. No. I do not think there is necessarily a connection there. I could add, Mr. Chairman, that the FDA is examining its policies with respect to statements regarding food consumption and the relationship to health. I cannot give you any timetable for that, but they are looking at this much more critically at present than has been the case in the past. They have had some prohibitions against such linkages within their interpretation of legislation which they are now re-examining.

Senator STEVENS. When can we expect these announcements of the programs?

Dr. WYNGAARDEN. Well, the original NIH announcement was issued last year, as I indicated, and the others are coming along now. One of the delays with respect to National Heart, Lung and Blood Institute and the National Cancer Institute is that they have some different procedures, obligatory procedures, that require review of such announcements by their Councils or Boards prior to public announcements, and that introduces a few months of delay. But that has pretty well been accomplished now. Early summer is the date that we anticipate for these.

Senator STEVENS. Does the NIH research go at all into the concept of what should be an optimum level of consumption of any particular type of food, fish, meat, anything else?

Dr. WYNGAARDEN. Yes.

Senator STEVENS. Have you analyzed that?

Dr. WYNGAARDEN. Yes, it does. As the evidence accumulates, the dietary advice is updated. Both the National Heart, Lung and Blood Institute and the National Cancer Institute issue general statements on advisories of dietary consumption. This has in recent years, for example, stressed the reduction of intake of saturated fatty acids and replacement of those by unsaturated fatty acids of vegetable and seafood origin.

There is need for more research before precise quantitative guidelines on omega-3 consumption can be promulgated publicly, but that is certainly one of the goals of the research now being conducted.

Senator STEVENS. Well, I have probably spent more time on it than most people, but I was amazed to find out recently when I looked into the school lunch program that fish is practically unknown in terms of the program, and one of the reasons is that they have no confidence in the assertions that are being made about the beneficial health impact of fish consumption.

I think that the studies, the research that you are undertaking, is really the keystone of the whole concept of trying to make the public aware of the beneficial aspects of fish consumption. I know that even within the seafood industry that is a little touchy because there are apparently some portions of seafood that are not as beneficial as others.

I think the public of the United States would like to have the reports of the nutritional value of seafood confirmed. Confirmation by an agency that has such great respect as yours would be significant for the industry.

Dr. WYNGAARDEN. There have been a number of conferences recently on topics related to this, including specifically the omega-3 polyunsaturated fatty acid subject which has greatly stimulated interest in this field as well.

Senator STEVENS. I get the Harvard Medical School Research Bulletin and they had a whole issue recently dedicated to this subject.

Dr. WYNGAARDEN. Yes, written by Alex Leaf.

Senator STEVENS. Well, we appreciate anything you can do to finalize these program announcements and to allocate the resources that are available to you. I know they are limited but there is a substantial industry out there that has great potential for the United States if and when we can have such confirmation.

Dr. WYNGAARDEN. Thank you, Senator.

[The startement follows:]

STATEMENT OF DR. JAMES B. WYNGAARDEN, DIRECTOR, NATIONAL INSTITUTES OF HEALTH, PUBLIC HEALTH SERVICE, DEPARTMENT OF HEALTH AND HUMAN SERVICES

SEAFOOD AND HEALTH

Mr. Chairman and members of the Committee, I am very pleased to have the opportunity to speak to you about seafood and health. This is an important topic addressed by several programs of the National Institutes of Health (NIH).

The possible association of increased intake of seafood with reduced incidence of certain diseases was first noted by epidemiologists. Epidemiologists are scientists who study patterns of disease in populations and the occurrence of particular associated factors—environmental or behavioral—that might play a causative role in the disease.

First, consider the comparative amounts of fish eaten by various populations. For the Eskimos of Greenland, the average per capita fish consumption is about 14 oz. (400g) per day. In Japan, the average per capita fish consumption is about 3½ oz. (100g) per day, but consumption reaches 8-9 oz. (250 g) per day in areas where fish is part of the local economy. By contrast, fish is eaten less than four times per month by the average citizen in the United States.

Then consider that in the United States, the number one cause of death is coronary heart disease. By contrast, the death rates from coronary heart disease among the Eskimos of Greenland and among Japanese are low. Within Japan, the coronary heart disease rate is higher on the mainland than on the Island of Okinawa and higher in farming areas than in fishing villages. These differences appear to be positively associated with a higher fish intake of Okinawans compared with mainlanders, and of Japanese fishermen compared with farmers. These correlations appear to provide good reasons for the enthusiasm of epidemiologists who have documented the story of the relationship between disease patterns and fish consumption. Furthermore, similar associations have been seen with other disorders such as hypertension, asthma, and arthritis. I am going to discuss today the nutritional, biochemical, and medical evidence that explains how components in seafood may protect against several diseases. I will also share with you some of our thoughts about unanswered questions in this area and proposed research that might add to our knowledge of the relationship between seafood and health.

The beneficial factor in seafood that has captured so much attention of late is not found in the protein or in the carbohydrate of fish (fish has negligible carbohydrate), but rather in the fat. This fat or oil is rich in polyunsaturated fatty acids. Polyunsaturated fats occur in two major forms: omega-3 fatty acids, found in linseed and some seaweeds, and predominant in some fish and marine animals, such as salmon, mackerel, and seal, and omega-6 fatty acids, found in meats and poultry, and predominant in vegetable oils such as corn or soybean oil.

The omega-6 fatty acids that we ingest in vegetable oil can be metabolized in the body to arachidonic acid, and subsequently converted to many varieties of hormone-like substances such as prostaglandins, thromboxane, and leukotrienes—also called eicosanoids. Overproduction of some of these eicosanoids seems to be involved in some diseases such as thrombosis and asthma.

ROLE IN DISEASE PROTECTION

How might the omega-3 fatty acids so prevalent in seafood protect against disease? For heart disease, scientists offer several possibilities which are being investigated. The hypotheses relate to blood clotting or thrombosis; to changes in levels of blood cholesterol or blood triglycerides, or the plasma proteins that carry blood lipids; to blood pressure; or to changes in the immune function. All are recognized risk factors that might promote the development of heart disease.

Platelet function

The first theory is that substances in fish oil reduce the tendency of blood to clot. This would result in less atherosclerosis and fewer strokes. Normally, when there is a blood vessel injury, platelets aggregate to stop the loss of blood from this area. This is followed by clot formation. The vegetable oil omega-6 fatty acids are used by the body to make arachidonic acid which is the precursor of prostaglandins. One of these prostaglandins, thromboxane A_2, stimulates platelet aggregration and eventually blood clotting. Fish oils provide eicosapentaenoic acid, which competes with arachidonic acid for the production of prostaglandins. In the presence of arachodonic acid, therefore, the blood will contain less pro-aggregatory substance, such as thromboxane, and more of anti-aggregatory material, such as the prostacyclines which are

the most potent inducers of platelet anti-aggregation activity. The result could be prevention of *excessive* clotting.

Lipids and lipoproteins

Both the omega-6 and omega-3 families of polyunsaturated fatty acids reduce total plasma cholesterol and low density lipoprotein (LDL) levels. However, lipoprotein responses to these polyunsaturated fatty acids differ considerably. Unlike vegetable oils (omega-6), fish oils (omega-3) cause a dramatic reduction in plasma very low density lipoproteins (VLDL) and in triglyceride levels, particularly in patients with hypertriglyceridemia. The effect of fish oils on (LDL) and high density lipoprotein (HDL) levels has not been definitely established. However, in a number of recent dietary studies, which included fish oil as the major source of fat, LDL-cholesterol in normal individuals declined, and HDL-cholesterol was unchanged. These would be beneficial changes in LDL/HDL ratios, from the standpoint of cardiovascular disease.

Blood pressure

In addition to the biochemical effects on blood platelets and lipids, fish oil has also been reported to reduce blood pressure. Scientists have not yet ascertained the mechanism this effect, although an attractive hypothesis is that it is related to metabolic alterations in the prostaglandin biosynthetic pathways. Whether the effects are generalizable to all dietary polyunsaturated fatty acids or are specific for omega-3 fatty acids is also uncertain.

Immune response

Recent literature suggests that disorders resulting in circulating immune complexes worsen atherosclerosis. Examples of such exacerbation can be seen among patients with systemic lupus erythematosus, and arthritis. Experimentally, atherosclerosis has been exacerbated in both rabbits and nonhuman primates by the continued injection of antigens.

The mechanisms by which immunologic injury affects atherosclerosis remains unclear. Injury to the endothelium plays an important part in the development of acute and chronic vascular disease and associated thromboembolic complications. Blood components that interact at the injury site include platelets, blood coagulation factors, leukocytes, circulating immune complex, and other plasma proteins. Materials released from either the blood cells or the vessel wall at the injury site affect blood cells, the formation of thrombi, and the development of initial lesions. Although immune complex injury by means of deposition has been suggested, few studies have been conducted on the role that the immune complexes play in plaque formation.

Further work is needed to understand the interaction of omega-3 polyunsaturated fatty acids with the immune system as well as the influence of these acids on the movement and function of membrane receptors important in the immune functions.

HIGHLIGHTS OF SOME RESEARCH PROJECTS RELATING TO DIETARY FISH OILS

The research community has become increasingly aware of the potential health benefits that may derive from increased consumption of dietary fish oils. It is important to remember that while research efforts have not focused heavily on this topic in the past, studies of dietary fish oils and their effects on blood clotting, lipid levels, and coronary heart disease have been underway for many years. Research into relationships between dietary fish oils and diseases other than coronary heart disease has only received significant attention within recent years. Let us look briefly at what those studies have shown.

Between 1956 and 1963, there were reports of seven studies of fish oil feeding in humans. The studies varied as to participants, the degree of dietary control, the sources of fish-oil fatty acids, and duration. In some, but not all, study participants, fish oils and vegetable oils were comparable in reducing levels of blood cholesterol. The principal intent of these studies was to demonstrate that polyunsaturated fats from any source (fish or vegetable) were effective in reducing levels of blood cholesterol. There was no indication from these studies that fish oils had unique properties not shared by other polyunsaturated oils from vegetable sources.

Dietary omega-3 fatty acids and blood lipid levels

Up until 1983, six studies—four of which were the work of Dr. W.E. Connor and collegues at the Oregon Health Sciences Center—reported observations in individuals with normal and with elevated blood lipids who were fed diets enriched with polyunsaturated fatty acids from salmon oil or with vegetable oils, compared with a

controlled diet with relatively saturated fatty acid. This direct comparison of fish oil and vegetable oil diets provided the first evidence that omega-3 fatty acids possess properties for lowering levels of blood triglycerides not found in the polyunsaturated omega-6 fatty acids of vegetable oils.

Only a few studies have reported the effects of fish oils in patients who have elevations of blood cholesterol and triglycerides. In a study reported in the 1950's by Ahrens and colleagues in New York, both plasma cholesterol and triglyceride levels were reduced more by fish oil than by vegetable oil. Another study, reported in 1985 by Phillipson, Connor, and others at Oregon, indicated that LDL levels were lower and HDL were higher after vegetable oil diets compared with fish oil diets.

The effects of dietary fish oil on the plasma lipids of patients with severe hypertriglyceridemia were first reported in 1981 by Connor and associates. These patients, when consuming up to 30 percent of calories as fish oil, had a 77 percent drop in their triglyceride levels. By contrast, a diet containing 30 percent of calories as omega-6 fatty acids caused such a rapid increase in the plasma triglycerides that the diet was stopped after 14 days. Thus, the omega-3 fatty acids appear to be of potential therapeutic benefit in patients with moderate to severe hypertriglyceridemia.

Dietary fish oil: Immunogenic-cadiovascular interactions; atherosclerosis; and hypertension

An NIH grant to the Oregon Regional Primate Center is supporting research in how diets based on lard, corn oil, or fish oil affect the health of mice and the progression of autoimmune and immune-complex disease and atherosclerosis. To date, it appears that the mice on the fish-oil-supplemented diet live longer and are healthier than the others. The study is continuing.

Several other researchers are studying the effect of dietary fish oil with the intent of clarifying the mechanisms of any beneficial or adverse effects related to atherosclerosis that might be mediated through factors such as plasma lipids, glucose tolerance, blood pressure, platelet factors, and cell membrane composition.

A study directed by Dr. Edwin Bierman at the University of Washington in Seattle seeks to understand, in humans, the mechanisms that account for reduction in plasma fats and cholesterol when individuals with normal or elevated blood lipids are fed omega-3 fatty acids. This metobolic study is being conducted on an outpatient basis, with experimental diets supplied to the study participants. The project will assess biochemical and metabolic changes that are known to be related to the development of atherosclerosis such as blood lipids and blood clotting factors.

Scientists at the Vanderbilt University School of Medicine are studying the effects of dietary supplements of fish oils on the production of prostaglandins and leukotrienes in humans, and the role of these compounds in asymptomatic arteriosclerosis and mild hypertention.

Acute pulmonary disorders

Studying animal models and humans, Dr. Frank Austen at Brigham and Women's Hosptial in Boston is evaluating the effects of dietary manipulation on respiratory physiologic responses to various stimuli. Respiratory responses to antigen challenge will be assessed following a diet enriched with menhaden fish oil, or a diet enriched with beef tallon.

Early data indicate that the animals fed the fish oil-enriched diet displayed less severe inflammatory responses associated with bronchoconstriction when challenged with aerosol antigen. It would thus appear that, in the animals studied, dietary supplementation with fish oil inhibited the bronchoconstrictor response. The beneficial effect of fish fatty acids as measured by response to standard aerosol challenge has clincial significance, since asthmatic reactions in humans are precipitated by a similar challenge.

Dr. Austin and co-workers are also conducting a double-blind study to assess the effects on asthmatic patients of dietary supplementation with the fish oil component. It will be determined whether the patients receiving fish oil exhibit decreased inflammatory reactions in the lung, and thus avoid the pulmonary disturbances associated with asthma.

Need for dietary omega-3 fatty acids

Whether or not there is a dietary requirement for the omega-3 fatty acids remains an unresolved issue in human nutrition. Like the omega-6 fatty acid family, omega-3 fatty acids cannot be synthesized by animals and therefore must be provided in the diet.

Dr. William Connor and coworkers in Oregon are investigating the essentiality of non-human primates of omega-3 fatty acid during growth and development in an

attempt to define the biochemical and functional consequences of omega-3 fatty acid deprivation. Female rhesus monkeys were fed semi-purified experimental diets which were either adequate or deficient in omega-3 fatty acids for a minimum of two months before conception and then throughout pregnancy with their infants receiving similar diets.

No significant differences were seen between groups in the mother's weight gain during pregnancy, the infant's birth weight, or the infant's body length or skull circumference at birth. However, the diet deficient in omega-3 fatty acid was associated with reduced levels of omega-3 fatty acid in skin and adipose tissue. Moreover, the omega-3 fatty acid deficient animals demonstrated visual deficits as measured by their impaired ability to adapt to darkness. Current studies are being conducted to determine the reversability of these findings as well as which omega-3 fatty acids can best be used to correct these abnormalities.

Anti-inflammatory effects of a fish oil enriched diet

Dr. Frank Austin and co-workers in Boston concluded from a study of several normal individuals who ate a fish oil supplemented diet that the fish oils derived from the fish oil had an anti-flammatory effect. Inflammatory reactions are associated with rheumatoid arthritis, systemic erythematosus, psoriasis, allergic encephalyomelitis, and multiple sclerosis. Exactly how fish oil promotes an anti-flammatory reaction is unclear. Although fish oils may diminish the release of prostaglandin derivatives that may in turn enhance antibody synthesis. However, it has been demonstrated that prostaglandins can have both anti-inflammatory and pro-inflammatory actions. Thus, there appear to be complex interactions of several systems that are influenced by dietary lipids. Scientists cannot as yet interpret the role of dietary lipids in these diseases.

Studies underway by Dr. Edwin Goetzl and colleagues in San Francisco indicate that fish oil given to normal individuals and asthmatics had distincit effects on several leukocytes (metabolites of prostaglandins) that might change the role of the mediators in asthmatics.

The research project of Dr. Dwight Robinson and coworkers (Massachusetts General Hospital, Boston, Massachusetts) is aimed at clarifying the role of omega-3 fatty acids and of prostaglandis and leukotrienes in inflammatory rheumatic diseases. A major approach of the research is to modify inflammation and immune responses by feeding omega-3 polyunsaturated fatty acids.

Previous work has shown that omega-3 lipids modify certain inflamatory and immunereactions in experimental animals. Dietary marine oils inhibit the development of autoimmune glomerulonephritis in lupus strains of mice. Dr. Robinson will investigate the effects of omega-3 fatty acids on other organ systems in murine lupus. In addition, the effects of these lipids on rheumatoid arthritis, acute hypersensitivity reactions, antibody formulation, osteoclastic bone resorption, and the reactivity of pulmonary tissue to leukotrienes will be examined in animal models.

Severe migraine and omega-3 fatty acids

Investigators at the University of Cincinnati compared the effects of fish oil and a placebo vegetable oil in 15 persons with severe migraine in a double-blind, placebo-controlled trial to determine whether and how fish oil would reduce severity of migraine. In individuals following the fish-oil-supplemented diet, there was a major shift in headache intensity toward the headache-free end of the scale. It is thought that the action of fish oil on migraine may be mediated through changes in prostaglandin synthesis and/or reduction in platelet serotonin release, with an overall decrease in cerebral vasospasm.

Cancer prevention

It has been generally observed that cancer risk is higher among people who consume diets high in fat and low in fiber, vegetables and some vitamins and minerals. Additionally, recent studies have demonstrated that not only the amount of fat, but the composition and type of fat influence the development of cancer.

Fats containing the omega-6 fatty acids which stimulate the production of immunosuppressive prostaglandins, are apparently favorable to the growth of tumor. Fish oil enriched diets decrease the production of these prostaglandins. In animal studies this coincides with retarded growth of tumor cells. In addition, fish oils contain high levels of vitamin A which can act as anti-neoplastic agents. Results obtained from recent experimental studies in animals suggest that fish oils and/or seafood-based diets may provide an effective non-invasive dietary intervention approach for reducing the risk of tumor growth and cancer.

Some current research plans

The NIH has plans to encourage and stimulate additional studies in omega-3 fatty acid research. As you know, the NIH issued, in December 1985, a program announcement, "Biological Mechanisms of Omega-3 Fatty Acids in Health and Disease States". Currently, three institutes have plans for initiatives in the forms of a program announcement, these include the (a) NIDDK to encourage research on the use of omega-3 fatty acids as a component of the structured lipid preparations used in parental nutrition (b) the NCI to encourage basic research studies on the role and mechanism of omega-3 fatty acids in cancer prevention and (c) the NHLBI to solicit research in omega-3 fatty acids and mechanisms of thrombogenesis and blood vessel atherogenesis.

Additional research on omega-3 fatty acids will be encouraged through the U.S./Japan Cooperative Medical Science Program. Also, the NIH has suggested omega-3 fatty acid research be included as a research priority in the Arctic Health Research Plan developed by the Interagency Arctic Research Policy Committee.

RESEARCH NEEDS

Research on dietary fish oil consumption and its effects has been of interest to the biomedical research community for many years. Several pioneering studies have been undertaken in the field. Far from settling the issues, however, these studies have only pointed to the areas where our knowledge is insufficient, and where further research is clearly warranted. We must thus focus our attention on how best to build upon the existing base of knowledge to clarify whether dietary fish oils do indeed have a role in preventing disease, and what types of research will best elucidate the fish oil-disease relationship.

We have interesting population findings that link fish consumption and disease occurrences. We can offer hypothetical explanations for the disease processes that involve metabolic products derived from fish oils. With few exceptions, however, we cannot yet define the fundamental biological mechanisms that might involve fish oil and lead to disease. We need better information on the amount of omega-3 or omega-6 fatty acids that induce specific changes in biological processes. We need to consider whether there is a desirable balance of omega-3 and omega-6 fatty acids in the average diet. Should programs aimed at lowering blood cholesterol levels and controlling levels of blood pressure strive for a balance in the types of polyunsaturated fatty acids? These are important questions and ones that I cannot answer today.

In summary, I hope this brief review provides a perspective on a recent and most active research area of the NIH. I will be pleased to consider any questions you may have.

Senator STEVENS. We now have Mr. Eric Laschever, representing the Alaska Seafood Marketing Institute; Pete Granger, West Coast Fisheries Development Foundation; Kenelm Coons, New England Fisheries Foundation; and Dr. Paul Sandifer, Marine Resources Division of South Carolina.

STATEMENTS OF ERIC LASCHEVER, ASSOCIATE DIRECTOR FOR FISHERIES AND ENVIRONMENT, ALASKA GOVERNOR'S OFFICE, REPRESENTING ALASKA SEAFOOD MARKETING INSTITUTE; PETE GRANGER, EXECUTIVE DIRECTOR, WEST COAST FISHERIES DEVELOPMENT FOUNDATION; KENELM W. COONS, EXECUTIVE DIRECTOR, NEW ENGLAND FISHERIES DEVELOPMENT FOUNDATION; AND DR. PAUL A. SANDIFER, DIRECTOR, MARINE RESOURCES DIVISION OF SOUTH CAROLINA

Mr. LASCHEVER. Thank you, Mr. Chairman. My name is Eric Laschever. I am the associate director for Fisheries and Environment in the Alaska Governor's Office. I am appearing on behalf of William Hudson, who is the executive director of the Alaska Seafood Marketing Institute. I would request that the Governor's testimony in support of S. 2138 be submitted for the record and would also like to note the strong support of the United Fishermen of Alaska for this bill.

Senator STEVENS. We will keep those in the record. We appreciate your coming. I understand that the legislature is in session and Mr. Hudson could not appear.

Mr. LASCHEVER. That is correct. He asked me to express his apologies for not being here and also wanted me to point out that he is speaking on behalf of the Seafood Marketing Institute and not the industry.

ASMI's observations are particularly pertinent to the legislation you are considering today in that it is one of the leading regional seafood marketing entities in the United States, and is structured much as the regional council as described in H.R. 2935 would be. I would like the record to reflect Mr. Hudson's support for both S. 2138 and H.R. 2935.

The major need for the U.S. seafood industry is a forum that can tackle the job of educating the public on the value and use of seafood in their daily diet and conducting meaningful research on ways to gain the greatest economic return from our plentiful seafood resources.

I think the message that he wanted to bring to you is very simple, and that is that our experience has been that a generic advertising, coupled with an aggressive publicity program, does increase seafood sales. A couple of examples for you. ASMI conducted a summer barbeque campaign for fresh and frozen salmon in 1984, which resulted in an overall product movement increase of 21 percent over the previous season.

It also implemented a sophisticated marketing program in Denver and San Francisco in 1985 that helped introduce Alaska pollock fillets for the first time in these areas. The program was so successful that this year a follow-up program was expanded to include Chicago and Minneapolis, and that appears to have been equally successful.

Perhaps the greatest indicator of the importance of generic promotion has been the maintenance and expansion of the sale of canned salmon at a time when surpluses, unfavorable exchange rates, and a number of other factors have posed significant marketing problems.

Creation of either a national marketing council or numerous regional seafood councils would be a good investment. It is worthy to note that Americans spend millions of dollars on fisheries conservation and management, an investment which assures that American will have a self-sustaining resource. However, a small additional investment to assure the resource is used to the benefit of American industry and reaches the plates of American consumers is needed to complete the circuit.

Investing in the U.S. seafood industry through the creation of a national marketing system will be beneficial to our Nation's economy, particularly when you consider the possibilities of displacing some of the foreign products that create a negative balance of trade in seafood.

I would like to conclude by thanking you again for the opportunity to state ASMI's views on this important matter and I am prepared to share some of ASMI's experiences in greater detail should you have any further questions.

Senator STEVENS. Thank you very much.

Mr. Granger.

Mr. GRANGER. Thank you. Senator Stevens, I am Pete Granger, executive director of the West Coast Fisheries Development Foundation. I am pleased to appear today to testify on behalf of both S. 2138 and H.R. 2935 and the entire issue of promoting and marketing seafood in this country.

The West Coast Foundation, headquartered in Portland, OR, is a trade association representing fishermen's organizations, processors, distributors, and marketers of seafood in Washington, Oregon and California. The Foundation supports both these proposed legislations and believes that a national seafood marketing council would be of benefit to the seafood industry of the United States.

I think it is fair to say that the rank and file in the West Coast seafood industry supports the notion of a national effort to promote seafood. I also believe that the west coast industry feels that its seafood products have a regional identity in the marketplace and that promotion on that basis should also be encouraged and enhanced.

I would like to focus on the national approach briefly and talk about our foundation's efforts on a regional basis and then finish up how these two proposals might be melded together. The Foundation again believes, as with other commodities, that a national promotional presence can be effective. It is certainly time that seafood had such an effort going for it, especially in this age where the consumer is being bombarded by millions of dollars in publicity on other protein commodities, such as beef and poultry, not to mention the foreign seafood organizations that have dollars to spend on promotion.

We certainly have come a long way in a short time in raising the level of effectiveness and sophistication in our marketing efforts in this country. One only has to scan the pages of Seafood Leader and Seafood Business Report magazines or attend one of the three seafood trade shows, national trade shows, to see the dynamic job that the industry is doing in selling itself and its products to the consumers of this country.

However, even collectively we are not advancing the cause of seafood as effectively as we could with a vehicle such as is proposed in the national legislation. With a really effective promotional budget, the industry could definitely get rolling on the general trend toward seafood in the U.S. and capitalize specifically on the exiting medical research pointing out the benefits of this product.

But we also believe that a regional focus and regional needs need to be addressed as well. If the national council is established—and again we think it should be—there needs to be a link to the regions of the country and the effective promotional efforts that have gone on and will continue to go on. Let me give you a quick overview of the situation on the west coast with respect to marketing and promotion of seafood, not including Alaska in this summary.

Since its inception in 1979, the Foundation has found itself becoming more and more the definitive marketing and promotion entity for Washington, Oregon, and California. Neither Washington nor California has private or public agencies involved in seafood promotion and marketing. Oregon does have three specific commissions, but their programs seldom reach beyond the greater Portland area in impact.

To fill this void with the use of industry and Saltonstall-Kennedy monies, the Foundation has established a comprehensive program on behalf of seafood much as any other commodity commission would. All this experience and the growing support from the seafood industry in the form of membership in our foundation leads us to believe that promotion of seafood is needed and wanted.

The problem is how to continue to fund this marketing and promotion effort, with its regional species mix, for the years to come. We continue to depend to a large degree on the Federal money for these program, monies such as S-K that faces, as we know, continuing budget pressure in the foreseeable future. Thus, while supporting the national approach addressed in your bill, the Foundation has also seen the enabling legislation in the House bill, if passed, as a mechanism by which we could proceed to develop a regional formula of species and territory for the west coast industry, or parts of it, to vote by referendum to assess itself to fund further marketing and promotion work.

We also believe that Federal enforcement, as contained in H.R. 2935 is necessary for the collection of this assessment. I have begun an informal process of inquiry within the west coast industry on the feasibility of this notion, and several things have become apparent after talking to salmon trollers, dungenous crab fishermen, bottomfish trawlers, and some processors.

Number one, they all agree that promotion is effective and needed. Number two, both the processors and the fishermen feel they must share equally in the funding of such activity, and that is a perceived problem. Number three, the seafood industry basically distrusts direct Governmental involvement in these activities. Number four, it will take a concerted educational effort to bring the industry on a regional level to the point where they can vote yes or no to assessing themselves for promotional efforts or agreeing to a legislative approach.

I might mention there are bills before the California State Assembly and the Washington State Legislature at this point to examine the feasibility of Statewide seafood promotional efforts.

You can readily see that promoting regional seafood is an important issue on the west coast. In supporting promotional efforts on seafood at the national and regional level, the foundation believes that some way should be devised to meld the approaches taken by the Senate and the House on this issue.

I would like to see S. 2138 contain two provisions that relate to the regional focus of effort: One, an enabling clause for the industry to set up its own effort on a specie-specific or regional basis in a way laid out by H.R. 2935; and/or specific language that mandates some allocation

of time and money by the national council to promote regional seafood and work directly with the existing State or regional organizations.

The bill passed by the Senate last year contained provision for 25 percent of the budget to go to the regions for specific promotion at that level. I think that that should be reinserted.

Finally, I would like to add two suggestions as far as the proposed legislation is concerned. This is more of a thoughtful kind of an assertion here. Is it possible that instead of earmarking the 5-year funding appropriations schedule from the Fisheries Loan Fund a one-time endowment of, say, $50 to $75 million could be allocated from this fund for this effort? It would certainly make the institution that much more secure.

Number two, on a more specific level, the bill does not specify where the offices of the national council should be placed. I would suggest that they be in a central location, which as Chicago, geographically, or in a large seafood consumer market such as New York or Los Angeles. All of these cities afford access to top public relations firms, media promotion and graphic design firms, et cetera.

That concludes my summary of testimony. Thank you very much for inviting me. On behalf of the Foundation I commend Senator Stevens and Congressman Breaux, the co-sponsors, and Members of the Committee for their attention to this important matter, and I would be glad to answer any questions.

Senator STEVENS. Thank you.

Mr. Coons.

Mr. COONS. I am Ken Coons, executive director of the New England Fisheries Development Foundation.

The domestic seafood producing and processing industry is often described as suffering from being resource-driven, and in my area we are resource-constrained, particularly on the traditional species. We have an urgent need to develop markets for non-traditional species and byproducts which are currently being wasted.

On a national basis, I think we have failed as an industry to focus on the enormous market opportunity which has been presented to the seafood industry by America's desire to eat healthy and light foods. As we have heard earlier today, we are not just talking about promoting seafood; we are talking about saving lives.

I think the number of Americans who die annually from heart disease is something like half a million people, and while we have been inactive in this area as an industry other people who are competing for share of stomach, if you will, particularly of pork and beef, are going to be mounting by this summer tens of millions of additional promotional dollars to promote those products as having many of the same benefits that fish and poultry enjoy.

Mr. Chairman, I can think of no more appropriate and needed investment of idle Fishery Loan Fund dollars than the national marketing program envisioned in this bill. It is an investment in a consumer franchise which will create customers for the seafood industry for years to come.

The proposal in the other body which provides for regional marketing councils could provide the regional and/or species-specific tie-ins with the national overlay program provided for in your bill. Like Mr. Granger, I believe it is essential that there be a regional program. The seafood business is regional and always will be as long as all the fish in the ocean are not cod or salmon. One way to establish regional companion programs would be with a percentage setaside in the national program to provide for regional efforts.

Fortunately, there are experienced port, State, and regional marketing programs already in place which could easily be expanded to become more effective. I, too, am hopeful that we will be able to meld the national marketing council with the concept of discretionary regional and species-specific councils as envisioned in the House bill.

I have to go back home to some political realities, as we all do, so I would like to make a couple of comments in that regard. First of all, the makeup of the proposed national marketing council I think commendably includes fishermen, processors and distributors, all of whom have a stake in marketing seafood. From a northeast perspective, I have to say that representing about 40 percent of seafood consumption in this country, as we do, we are somewhat troubled to see our area represented with one out of four of the regional seats.

Right or wrong, as happened in the hearing that was held last year on this subject, this is perceived in New England as perhaps the use of public funds to introduce Pacific products to our area, and that is a sensitive area because we are already awash with Canadian fish and European fish.

I would also caution that despite the many hearings, meetings and efforts of the foundations and others to promote the idea of marketing councils, I think it is fair to say that generally the seafood industry is still unaware of the merits of this sort of program. So I think we have to be prepared to mount an education and discussion process so we do not all get caught with a last-minute negative response from the industry, and I think the development foundations are a logical vehicle to accomplish this.

In closing I would like to just comment very briefly on H.R. 2935, the Seafood Marketing Council Act. There is very good support for this concept in New England because of its flexibility and its chances for passage would appear to be reasonably good because it is revenue-neutral.

The mechanism envisioned in this bill to establish a council, as I read it, would require about a year's time. There seems to be a rather cumbersome process envisioned in that mechanism, with a good deal of Federal agency involvement. We feel this should be an industry-led program, the program is, after all, funded entirely by industry assessments.

We are also bothered by the refund provision. The experience, as I understand it from the other commodity marketing boards which have been established in the Department of Agriculture, has been that when there is a refund provision the claim level tends to be at about the 30

percent rate. One of the reasons that you would go through the red tape of holding referenda and establishing a council is to solve the free rider problem and yet if you have a refund provision you build in the fact that there will be free riders to the legislation.

I want to thank you very much, Mr. Chairman, for this opportunity to comment and on behalf of the New England industry we deeply appreciate your continuing efforts to support the seafood industry. Thank you.

Senator STEVENS. Thank you very much.

Dr. Sandifer.

Dr. SANDIFER. Thank you, Mr. Chairman.

My name is Paul Sandifer and I am director of the Division of Marine Resources for the South Carolina Wildlife and Marine Resources Department. I would like to give you another State perspective.

Our Marine Resources Division is responsible for the conservation and management of South Carolina's living marine resources and for conducting applied research on these resources. As part of our overall mission we have a seafood marketing services section that works to develop new and improved markets for our fishery products. We have already seen firsthand what a carefully directed and targeted State marketing program can do for our industry, and we strongly support an expanded effort in fisheries marketing as proposed in S. 2138 and H.R. 2935.

Now, I further believe that a seafood marketing effort of national scope is going to be essential to extend the State and regional efforts that are already under way. Such a national program will significantly benefit both the seafood industry and consumers in my home State. However, I recommend that the composition of the national council proposed in S. 2138 be modified so that formal input from State seafood marketing programs and, if possible, from fishery and trade associations and consumer groups, is received.

We are concerned that without regular grass roots input the national council may become too far removed from the implementation of marketing strategies at the regional and local levels, where the sales actually occur. Regional coordination will allow for flexibility in taking advantage of national promotions for species or fishery-specific products, while maintaining point of origin identity as desired.

This regional linkage may be accomplished through the establishment of regional advisory boards or, in our view, preferably through the appointment of representatives from one or more of the State seafood marketing programs operating in the various regions to the national council.

In this way, the national council will start off with the benefit of direct regular input from those people who are already operating successful seafood market and promotion programs across the country.

Now, if I may, I would like to give you a little background for my support for S. 2138 and the recommendation I have just made.

Although the South Carolina seafood industry itself is relatively small—our annual dockside value is about $20 to $25 million—it plays a vital role in the economic base of a number of our State's coastal communities. However, the disjointed nature of our seafood industry and the lack of large concentrations of seafood landings have always prevented the large volume buyers from being attracted to our area. The result is that our producers lack access to consistent markets with good prices. Thus, most of our product leaves the State with little value added.

It should not be surprising, then, that the major objectives of our marketing program are to increase consumption of seafoods produced or processed in State and to maintain their identity as South Carolina products, whether they are destined for local, national or international markets. That is, we want to build a preference for our products among consumers.

Establishment of a national seafood marketing council would promote species that are harvested throughout the country, including those produced in South Carolina. When those species we harvest are promoted nationally, our industry, including retailers, wholesalers, processors and harvesters, would benefit from this high level advertising campaign. Consumer awareness and demand will increase, thus upgrading sales. Also, since our restaurants and retail seafood outlets sell many seafood products that we do not produce, our markets would gain increased sales benefits of national advertising for almost any type of seafood. This could be extremely important in our coastal areas, where tourism is a dominant industry.

Now, virtually none of South Carolina's fisheries or fishery resources are unique to the State. Our major fisheries are shared with our sister States in the region, and this regional nature of our fisheries necessitates coordination of our marketing efforts at the regional level. To date we have accomplished this regional coordination by working closely with seafood marketing activities and programs in neighboring States through the Gulf and South Atlantic Fisheries Development Foundation.

The foundation is an essential element in our regional approach to marketing seafood. The State programs provide the seafood marketing expertise, local knowledge and personnel while the foundation provides coordination for trade show participation, funding for travel, promotional brochures, and so forth.

In conclusion, we see a great need for a national council to promote the image of seafood at a national level, but this effort should be closely linked to the ongoing State and regional promotional programs. This can best be accomplished, in our view, by including representatives of these State and regional programs on the national council from the outset.

I thank you very much for giving me this opportunity to present my State's views, and I will be happy to try to answer any questions.

[The statement follows:]

STATEMENT OF DR. PAUL A. SANDIFER ON BEHALF OF THE DIVISION OF MARINE RESOURCES, SOUTH CAROLINA WILDLIFE AND MARINE RESOURCES DEPARTMENT

My name is Paul A. Sandifer. I am Director of the Division of Marine Resources of the South Carolina Wildlife and Marine Resources Department. The Marine Resources Division is responsible for the conservation and management of South Carolina's living marine resources and for conducting applied research on these resources. As part of the Division's overall mission, our Seafood Marketing Services Section works to develop new and improved marketing channels and markets for traditional and non-traditional fishery products. We have seen firsthand what a carefully directed marketing program can do at State and regional levels, and we strongly support a national effort in fisheries marketing and promotion, as proposed in S. 2138.

The seafood industry in South Carolina, although relatively small, plays a vital role in the economic base of the state's coastal communities. The annual dockside seafood value is about $20-25 million and places South Carolina 19th in the United States. This industry traditionally has been shellfish oriented, with shrimp remaining the single most important component, but due to economic changes, the industry has had to diversify. This diversification has led to dramatically increased finfish landings in recent years, with established industry members harvesting new species, as well as some new people entering the industry.

The disjointed nature of the seafood industry and resulting lack of large concentrations of seafood landings have always prevented large volume buyers and marketing organizations from being attracted to the area. The result is that our producers lack access to a consistent market. Thus, industry members are faced with insufficient storage, excessive transportation costs and widely fluctuating prices. All of these result in dramatically lowered profit margins.

To develop and expand dependable, consistent markets for South Carolina's products, we need accurate information on markets, marketing channels, and regional and national trends. This information is critical to businessmen and must be disseminated to them on a timely basis.

Our most important information resources are the various components of the seafood industry itself. To be aware of developing trends, we must maintain contact not only with the industry in South Carolina, but also around the country and internationally as well. This personal contact occurs daily by telephone and mail, as well as via periodic travel to meetings and trade shows.

Trade shows are an effective tool for gathering valuable information on current trends and conditions in the industry. Through participation in trade shows, we are able to visit other markets and develop first hand information about the companies, their decision makers, and product preferences.

In promotional work, our philosophy is to promote all seafoods, recognizing that this will help our industry by increasing overall consumption and awarenes of seafood. We use a variety of promotional methods including consumer education activities at festivals, fairs, and other large gatherings. During these events, we present cooking demonstrations, allowing the audience to sample the finished dishes. These activites are accompanied by displays, brochures, recipes, and invitations to try seafood available locally.

Our staff frequently appear on television programs to demonstrate cooking techniques and discuss seasonal availability, nutrition, purchasing, handling, and value of seafood. We also work regularly with other news media, producing news releases and generating industry-related stories, especially in the coastal area. In addition, we produce recipe brochures and flyers for point of purchase use and consumer education.

Our major objectives are to increase consumption of seafood produced or processed in state and maintain their identity as South Carolina products whether they are destined for local, national, or international markets. Recent efforts by our marketing them have resulted in South Carolina products penetrating such diverse metropolitan markets as Chicago and Denver while maintaining point of origin identify. We believe that this legislation, S. 2138, will further enhance our efforts, especially in increasing demand for seafood throughout the nation and in improving our ability to penetrate foreign markets.

An independent marketing council with national scope will greatly assist in bolstering the image of seafood. I believe our State efforts must continue, but linkage to a national effort is needed. We view a coordinated national promotion campaign as essential to increasing the level of public awareness and thus consumption of seafood products throughout the U.S.

Establishment of a national marketing council that focuses attention on generic activities designed to increase the frequency of consumer trips to buy seafood would facilitate regional/state marketing efforts and would benefit the seafood industry and consumers of South Carolina in a number of ways. Such a council would promote species that are harvested throughout the country, including those produced specifically in South Carolina. When those species we harvest are promoted nationally, our industry—including retailers wholesalers, processors, and harvesters—would feel the direct impact of a high-level advertising campaign. Consumer awareness and demand would increase, thus upgrading sales. But our restuarants and retail seafood outlets sell many seafood products in addition to those produced here. When species from other regions are promoted, our markets would still gain the increased sales benefits of national advertising. We would also experience a carry-over effect of an expanded overall interest in seafood.

Nutritional and health benefits of seafood for humans has been documented in previous hearings. In South Carolina, we take these findings seriously. In 1983, 48% of all deaths in South Carolina were due to heart attack or stroke, both of which apparently can be mitigated by proper diet. Many South Carolinians consume large quantities of foods containing relatively high levels of saturated fats, and the dangers of high-fat diets have been known for some time. By educating consumers that seafood is a delicious alternative protein source that is low in fat, calories and cholesterol, we hope to help reduce the incidence of diet-related disorders among our citizens. Coupled with the massive publicity that "eating light" has received in the past several years, a strong national effort to promote seafood may encourage many of our residents to rethink their eating habits and increase their consumption of seafood even further.

It has always been our Marketing Section's philosophy that increasing the demand for seafood as a whole will benefit our industry. When consumers begin to "think seafood," they will purchase seafood, even if their species of choice is not available. From our extensive work with retailers, restaurateurs, wholesalers, harvesters and consumers, we believe that seafood is finally coming of age, and is long overdue for highly visible promotion at the national level.

In conclusion, I support Senator Stevens' bill S. 2138, as I believe that a seafood marketing effort of national scope will significantly benefit both the seafood industry and consumers in my State. However, I would like to offer one recommendation for improvement of the National Fisheries Marketing Council to be established by the bill. This recommendation relates to regional representatives of the council.

Virtually none of South Carolina's fisheries or fishery resources are unique to the State. Major portions of our resources are shared with our sister states and the region. For example, while economists have estimated that total annual income generated by commercial fisheries in South Carolina amounts to about $50 million, most of our production in the high value fisheries (e.g., shrimp, swordfish, snapper/grouper, clams) leaves the state in fresh form and joins the regional markets for value-added processing and final sales. Thus, this regional nature of our fisheries necessitates coordination at the regional level for effective market and product development, promotion, and consumer education. To date, we have accomplished this regional coordination by working closely with seafood marketing programs in our neighboring states through the Gulf and South Atlantic Fisheries Development Foundation. The state programs provide the seafood marketing expertise, local knowledge, and personnel while the Foundation provides coordination of activities such as trade-show participation and some funding for travel, publications, etc.

The composition of the proposed National Council should be modified so that formal input from state seafood marketing programs, and if possible, fishery and trade associations and consumer groups, is received. Without regular grass roots input, the National Council may be too far removed from the implementation of marketing strategies at the local and regional levels. Close ties are needed locally since trade leads, advertising, etc. are followed-up or developed at this level. In other words, we believe that regional implementation will be a key element in an effective national seafood marketing program. Regional coodination allows for flexibility in taking advantage of national promotions for species or fishery-specific products while maintaining point of origin identify as desired. This regional linkage may be accomplished through the establishment of advisory boards or preferably through the appointment of representatives from one or more of the State seafood marketing programs operating in each region to the National Council.

We encourage and support the committee's efforts. Thank you for allowing me to participate in the development of this important legislation.

Senator STEVENS. Senator Hollings.

Senator HOLLINGS. Thank you very much, Mr. Chairman. I apologize for not getting here sooner. We had a hearing with the Attorney General at another subcommittee meeting. I ask consent for my opening statement to be entered in the record. I would like to talk with Dr. Sandifer and the panel, particularly Dr. Sandifer, who is our director down in South Carolina.

You are the director, of course, of the State marine fisheries effort. As a give and take situation with respect to the priority given the marketing council, Dr. Sandifer, if you had to give on some of the other items in your budget, would you think that research efforts and everything else like that should continue on and if we have to sacrifice we will do it at the marketing level?

Where would the give and take be if we have this problem in budgeting?

Dr. SANDIFER. Thank you, Senator. The problem, as I see it, is that we already have a great number of priority fisheries research and development activities that are severely under-funded at the State, regional and national level. I would be delighted to see a national program for marketing get under way. I think it would benefit our State industry, but I believe that beginning such an effort at the expense of ongoing programs would have a negative effect overall.

So I would have to say that I would place higher priority at this point in continuing funding for the kinds of activities that are under way in our research and development program.

Senator HOLLINGS. Very good.

With respect to the membership on that national council and the proposed council member nomination system, would South Carolina be appropriately represented, or the State of Alaska? What is your comment on that?

Dr. SANDIFER. For South Carolina I doubt very, very seriously that we would be adequately represented as the council is currently envisioned simply because the size of our industry is quite small. I am not sure about the State of Alaska at all. But I would strongly recommend that a mechanism be placed in the language of the bill to allow regional marketing programs to be specifically represented on the council.

We could do that probably through the regional fisheries development foundations, which in turn represent the industries in the States and work closely with State agencies such as ours. We have an excellent track record of experience and a good working relationship with the Gulf and South Atlantic Fisheries Development Foundation in marketing, and I think that working through the Foundation and having membership rotating among the States would probably take care of that in a very reasonable way.

Senator HOLLINGS. What about the role of NOAA, the Administrator of NOAA, in either of these bills? Would the bills impose any burden on the agency, as you see it, or not?

Dr. SANDIFER. Senator, I would have to say that I believe the burden imposed by the House bill would be significantly greater than that imposed by Mr. Stevens' bill. I do not think that the amount of extra activity required under S. 2138 would significantly impact the NOAA Administrator's office or budget. I am not certain about that with the House bill, but I fear the mechanism is so much more cumbersome that it would have a relatively major budgetary impact.

Senator HOLLINGS. Thank you, Mr. Chairman. Dr. Sandifer, we welcome you to the panel and the Committee hearing and I appreciate the courtesy of the Chairman in allowing me to ask these questions.

Senator STEVENS. We are pleased to have you join us, Senator.

Let me go back to Mr. Laschever. In Alaska the ASMI has funding from both the State and industry assessments. Do we contemplate that eventually there would transition to just an industry support base?

Mr. LASCHEVER. Let me elaborate a little bit on how it is currently funded and then speculate a little bit about what the future is.

Right now ASMI is funded by an assessment of two-tenths of one percent on the value landed each year, and that generates about $1 million. The State has contributed in this year $2.6 million, so they have an overall budget of about $3.5 million.

I think that with declining revenues in the State it is likely that State participation—it will be difficult to maintain the State portion of that as its current level. I think that there are no current plans, though, to phase out the State participation. So I think that in the near future it will continue to be a shared program.

Senator STEVENS. All right. Mr. Granger, you mentioned the 25 percent funding that was provided in the last version of the Senate bill. Now, do you believe that that money, if it goes back into this bill, should go to regional councils that are established by industry referendum? We had to take that out because we did not see a national pattern as far as who should get that money.

Do you believe that it ought to be a carrot in effect to the establishment of the regional councils by referendum, with some industry support before they could have a portion of the money that is available on the national level?

Mr. GRANGER. I am not sure that that would work. It would take some time to implement that. That is certainly the case. I think in the case of the foundations there is a mechanism in place to some extent. We all operate a little differently in each of our regions. Some are more marketing oriented than others. It may be that the national council would have to appoint regional staff entities that would then apportion the money out to contracting agencies that are in place based on how well they perceive they could perform the regional promotional duties.

Senator STEVENS. See, my problem is that I feel that the demand is going to increase and the national marketing council concept is going to accelerate that increase in terms of time and intensity. But I do not see there is any reason to doubt that the industry as a whole is going to be able to support the marketing efforts, just as the other agricultural marketing boards are currently supported, by industry contributions.

But we have got to get started somehow, and I think we need a national program. And if we accepted the fact that we might deal with a foundation in one region and in other areas we would have a regional council, and that the foundation would get its portion of the regional funding from the national council, it would seem to me that we would not be going towards a national program.

I would like to have a transition into totally non-Federal support, but I think we have to have some carrot out there to get those regional councils established. In your area would that be counterproductive?

Mr. GRANGER. No. I do not think it would. I personally would rather see the mechanism in place for a regional council to finally establish itself. Whether the foundation would in effect, as it exists now in our area, be that council or it would be something completely new, it really does not matter to me. I want to see the regional approach continue, and I think what you are seeing is with the start of a national approach and then a provision for regional entities to become established it certainly could work.

Senator STEVENS. I think the politics of the situation is we are going to see both if this bill survives, and that does not bother me. But I do think that having undertaken that and realizing the need for some transitional funding at the regional level, too, that we ought to insist that the regional council be there before that region receive a portion of that 25 percent. That is really what I am saying.

That would not be offensive in your area?

Mr. GRANGER. No, it would not, as long as there is a mechanism that could establish a reasonable entity.

Senator STEVENS. How about you, Ken?

Mr. COONS. I think it would be a very important spur to the formation of regional councils, and I would support that.

I would also comment, Mr. Chairman, that one of the advantages of your bill is the fact that it could readily be put in place. There is a theory in the advertising of anything that there is a threshold level that you have to get to before all of the dollars are well spent, and I think one of the difficulties in the seafood industry is it is such a patchwork of inadequately-funded programs and it needs the lift of a national overlay which this would provide.

Senator STEVENS. I wish we could adopt the suggestion of just endowing a national program. I do not think with this budget situation we would get by with it right now.

Your concerns about the representation of the New England area disturb me a little bit, frankly. What you are really saying is that the national marketing council ought to have some relevance to the percentage of consumption in the area as compared to the national picture, as well as some accountability for the production levels in that region: is that right?

Mr. COONS. Yes.

Senator STEVENS. Well, that is a very interesting thing. I do not think there is any area of the country that has been inundated with Canadian marketing efforts as yours has been. What has been the effect on the

overall domestic industry as a byproduct of the Canadian national advertising in your area?

Mr. COONS. I would characterize the industry in my area as getting healthier the farther downstream you go. The impact on fishing vessels has been quite dramatic. Some of the largest trawlers have been sold, as a matter of fact, because of the combined effect of Canadian imports and the exclusion of part of the Georges Bank as a result of the boundary issue.

As you go downstream, of course, the American seafood consumer is basically shopping in a global market, so if you are a seafood distributor or marketer why it is good because it has tended to reduce the price of fish to the consumer.

Senator STEVENS. Do you believe if we set up the national marketing concept on a basis that would require a transition to industry support within a period of time—let us say we combine the bills and we had the regional program provide the 25 percent and indicate that the regional program had to be taken over within, say, 3 to 5 years and that the national program had to be taken over, say, 5–7 years by industry support or they would be out of existence—that that would be acceptable in New England?

Mr. COONS. In my opinion, it would, yes.

Senator STEVENS. Is that time frame reasonable—three to five years?

Mr. COONS. I am more concerned about when we start than how it evolves.

Senator STEVENS. All right. Dr. Sandifer, I appreciate your taking the time to come and be with us. Your support is quite important to us. In answer to Senator Hollings you indicated you probably would not expect participation in the national board. Is your region strongly enough organized already that there would be a general acceptance of a regional representative on a national board?

Dr. SANDIFER. I do not know from the standpoint of industry whether it is that strongly organized since most of the seafood industry or businesses are quite small in the southeast. But the marketing programs operated via State and regional and, in some cases a combination of State and industry activities, I think could get together and present a regional nominee for membership on the board.

Senator STEVENS. On a regional basis?

Dr. SANDIFER. On a regional basis. I believe that could be done. As I indicated, our marketing programs now, are coordinated through the Gulf and South Atlantic Fisheries Development Foundation. I believe working through that Foundation to identify a candidate who would be suitable for regional appointment would be a quite reasonable approach to take. I think it could be accomplished.

Senator STEVENS. Would you envision or could you tell me whether you personally would see any objection to a combination of these two bills?

Dr. SANDIFER. None whatsoever. Our only concern, the primary concern, I should say, with the House bill is that it seems extremely cumbersome and it would take a bit longer to get to the national promo-

tion. I agree with my colleagues here at the table that what we really need is some high level advertising at the national level to promote consumer awareness of seafood. Then I would like to see the existing programs, plus others that could be developed under the aegis of something like the House bill, take advantage of that national advertising campaign.

We do have effective marketing programs in the southeast and Gulf States already. They need the stimulus and connection to a national program to really move our product out, get the point of origin identity, get to consumers who are not now buying our product.

Senator STEVENS. Well, thank you all very much. I appreciate your taking the time and I look forward to working with you.

Our next panel is Mr. Brubaker, Bob Brubaker, and Lee Weddig, who represent the National Fisheries Institute; Ms. Kristin Vehrs of the Texas Shrimp Association; Bob Morgan, Pacific Seafood Processors Association; and David Burney, representing the United States Tuna Foundation.

I guess the first witness is Mr. Brubaker, who is vice president of NFI.

STATEMENTS OF ROBERT P. BRUBAKER, PRESIDENT, KING SHRIMP COMPANY, INC.; LEE J. WEDDIG, EXECUTIVE VICE PRESIDENT, NATIONAL FISHERIES INSTITUTE; KRISTIN L. VEHRS, WASHINGTON REPRESENTATIVE, TEXAS SHRIMP ASSOCIATION; ROBERT F. MORGAN, PRESIDENT, PACIFIC SEAFOOD PROCESSORS ASSOCIATION; AND DAVID BURNEY, COUNSEL, UNITED STATES TUNA FOUNDATION

Mr. WEDDIG. Mr. Chairman, with your permission I would like to start off for NFI and then turn it over to Mr. Brubaker, our elected officer.

Senator STEVENS. That is fine.

Mr. WEDDIG. We have submitted a large statement and would appreciate it being inserted in the record. We would just like to make a few comments to summarize and supplement our views on this matter.

First of all, I wish to comment on one of the matters that came up during the first series of witnesses in respect to the attitude of the administration towards the seafood industry as opposed to what exists in respect to the agriculture business, and compliment you on citing this inequity that seems to exist throughout.

Following up on that, I wish to compliment you for your efforts to redress some of the inequities. Very slowly progress is being made over the years, with your help, in terms of finally getting seafood involved in export credit guarantees and commodity purchases, things that have taken years to do which should have been included right from the very onset. I think the very situation here in terms of providing organizational help to set up marketing councils is just one more example where inequity does exist and we appreciate your support for it—not for the inequity but for correcting the inequity, I should say.

In respect to the two bills that are before us, NFI supports both of them and we urge the movement of the Committee towards approving them as a single bill. We also ask that a provision be added which would direct the Department of Commerce, together with the Department of Agriculture and the Food and Drug Administration, to design a comprehensive inspection program for fish and seafood.

We believe that the two programs complement each other beautifully. The national council idea of using some Federal funds to do a generic promotion, educational campaign for all seafood would get the ball rolling. This would enable the specie and regional groups to become organized and to pick it up after the national concept either fades into the sunset or is funded by the industry later on.

We think that there is very important timing involved here, that the time to go on this is now. There was a witness who mentioned that the poultry and beef industry are mounting some massive campaigns. From what we understand, it is going to be something like $60 million to promote the generic attributes of meat and poultry in the coming several years. And right now the seafood industry is enjoying a very positive attitude on the part of the consumer and the time for us to make a move to gain a larger share of the diet is now.

It is very difficult to change consumer eating habits and we have begun these past 2 years to gain a very significant increase in per capita consumption, and the time to strike is when the iron is hot. Now is the time.

We believe that Federal assistance to do this is justified for several reasons. The most important is the significant public health benefits that can be achieved. In our statement we point out that right now coronary heart disease is costing us something like $72 billion annually. Bypass operations alone cost over $4 billion. A single bypass operation is $25,000 to $30,000. All we have to do to get back to the $25 million that you are proposing be taken from the Fisheries Loan Fund is to prevent 1,000 bypass operations, and if the medical people are right in what they are telling us, that should not be too tough to do.

So we consider this to be an investment of public funds that will come back in terms of lower health costs and a better life for a lot of people in this country. In addition to that, expanding the seafood market would promote tax revenue and new jobs. From an equity standpoint, the competing foods are receiving substantial Federal assistance. The funding would be provided by the foreign fees.

But promotion and education alone are not adequate. All of the surveys show that quality and assurance of quality and safety on the part of the consumer are very important, and for that reason we believe that the proposal should include this direction to design and improve the inspection system for fish and seafood products. This design should be done by the agencies in consulation with the industry.

I would like to ask Mr. Brubaker now, who is our first vice president, to take just a minute or two to give you some firsthand industry experiences that support this belief.

Mr. BRUBAKER. Thank you, Mr. Chairman.

Unfortunately, there are some seafoods that our consumers get from time to time that are far from the quality that they should be. I am afraid that the amount of enforcement of specific regulations in this area is extremely weak, illustrated by my experiences in the shrimp business.

There is a standard of identity for frozen raw breaded shrimp that says a minimum of 50 percent by weight of the product must be shrimp. And yet we find violations frequently far in excess of that. When a consumer receives and eats frozen breaded shrimp that may have 70 or 80 percent breading on it, I am afraid they are not very anxious to repeat that purchase. And yet there is very little enforcement in that area.

We further have a significant amount of economic deception relative to such simple things as short weight. There is very little inspection going on in that area. We have specie substitution, labeling violations, and again very, very little enforcement.

In terms of the marketing side, there are over 50 species that are popular in America today, and that means each specie is fighting against major items like beef or chicken. We are a bunch of small companies, generally, particularly in the retail business, where we are fighting the major marketers, and we just do not have the funds. We cannot launch $10 and $20 million advertising campaigns to launch a new product that the major manufacturers in this country are able to do, and are driving seafood off the retail shelves.

I appreciate the opportunity to discuss this and would be happy to answer any further questions.

[The statement follows:]

STATEMENT OF NATIONAL FISHERIES INSTITUTE

The National Fisheries Institute is a trade association of over 1,200 member companies which harvest, process and market fish and seafood throughout the United States. It is the largest organization serving the U.S. fish and seafood industry and one of the oldest.

NFI appreciates the opportunity to present its views on the need for fish marketing legislation. NFI supports both S. 2138 and H.R. 2935 and urge the Committee to approve them as a single bill. The two bills complement each other and together provide short and long term mechanisms needed by the industry to educate consumers and the trade about the significant nutritional and other benefits of fish and seafood, its care and utilization. NFI asks also that a third element be added to the package, namely a requirement for the federal and state agencies concerned working with industry, to prepare a comprehensive, farsighted plan of an effective inspection program of fish and seafood products for the 1990's and beyond.

The need for such legislation is clear.

U.S. FISH AND SEAFOOD CONSUMPTION SHOULD BE HIGHER

Some may question the need for this legislation in view of very recent exciting advances in consumption of fish and seafood products, the generally favorable perception of seafoods' healthfulness, and the relatively good record of providing wholesome products.

1985 was growth year for fish and seafood consumption. Per capita use of fresh and frozen product jumped from 8.5 to 9.0 pounds, a six percent increase. Canned product consumption also moved up as overall per capita consumption increased from 13.7 to 14.5 pounds. Since 1980, the overall increase has been from 12.8 to 14.5 pounds or 13 percent.

Despite these encouraging gains, the per capita consumption of fish and seafood in the United States is relatively low. Fish is a distant third behind red meats and poultry in supplying animal protein to Americans. According to the U.S. Department of Agriculture, American consumers in 1985 ate an average of about 153 pounds of red meat, and 68 pounds of poultry.

The relative consumption of fish and shellfish versus meat and poultry is not quite as low as the numbers appear since the consumption of fish products is measured on an edible weight basis, while meat and poultry figures are retail cuts weights which means they include a fair amount of waste. After adjustment for this difference, it appears as if fish products account for about 8 percent of the total annual protein directly consumed in this country.

No matter how the consumption is calculated, however, it is apparent there is room and need for greater consumption of fish in the total diet of Americans. Indeed, the per capita consumption of fish and seafood in the United States is far below that of other major fishing nations such as Japan, Norway, Iceland, Spain, Korea and the Soviet Union.

A review of the statistics shows some interesting trends in the consumption patterns. For a period of about 35 years, following World War II, fish and shellfish per capita consumption was on a plateau in the 10 to 11 pound range. Then in the mid-seventies, per capita consumption grew to the 12 to 13 pound range, increase of 20 to 30 percent. This increase came about following the termination of the Catholic Church meatless Friday rule and the growth of fast food restaurant chains which included fish sandwichs on the menu. Both reflect attitudinal changes among consumers that fish is an everyday food. This increase occurred mainly as a result of the increase use of fresh and frozen products with canned fish remaining stable and cured products declining. Unfortunately, this growth trend tapered off in the late 1970's, and has just now begun to show upward movement again.

For the past several years, the industry has been in a position of internal competition. This means shifts are occuring between fresh fish and frozen fish; between various species; and between finfish and shellfish. The health of the industry depends on an increase in the overall usage, not in shifts between the many resources which make up the industry.

INCREASED CONSUMPTION WOULD BENEFIT THE INDUSTRY

Even a small increase in per capita consumption means a significant new opportunity for the U.S. fish and seafood industry. For example, if Americans ate one more pound of pollock each year, it would create a market for 400 to 500 thousand tons of ex vessel production. This new production, in turn, would produce new jobs and revenue for the U.S. fish and seafood industry.

Much has been discussed before this Committee in the past regarding the great potential of the U.S. fish industry to add to the nation's employment and gross national product. The estimates of this potential vary. Conservatively, one need look only at the amount of resource presently allocated to foreign fleets as base minimum potential. If these resources were harvested, processed and marketed entirely by U.S. companies, it could mean many thousands of new jobs and revenues above the billion dollar mark.

The Congress has been well aware of this potential and has enacted legislation in the past to set the stage for it. The Magnuson Fishery Conservation and Management Act is a cornerstone for development. Through the years, however, the emphasis has been on making it easier to harvest the product.

Precious little has been done to encourage increased consumption. Perhaps the problem has been approached from the wrong direction. If the U.S. market can be encouraged to consume more fish, the industry should respond by increasing its production to fill that need, in view of the readily available resource.

INCREASED CONSUMPTION WOULD BENEFIT CONSUMERS

Increased consumption of fish and seafood also would benefit consumers as illustrated by three studies recently published in the New England Journal of Medicine which indicate that significant health benefits could accrue to individuals who eat fish as a regular part of their diet. Early research results indicate that the polyunsaturated fatty acids contained in fish reduce the risk of coronary vascular disease. These initial findings have encouraged the medical community to investigate further the health benefits of eating seafood.

The body of scientific evidence linking health to seafood consumption continues to grow. A recent 10-year study, called the Coronary Primary Prevention Trials, involving about 4,000 men, showed that those men who lowered their cholesterol levels had fewer heart attacks and less heart disease. At a recent Seafood and Health Conference in Seattle consponsored by the NFI leading medical researchers were unanimous in their advice that a good diet should include fish two or more times a week.

Most research has concentrated an effects of fish in the diet on coronary disease, but work now in progress suggests preventive attributes in other areas as well, including certain forms of cancer.

Improvement in diets has long range economic and social benefits. Considering that coronary heart diseases annually cost Americans $72 billion in care and disability, with artery bypasses costing more that $4 billion alone, it is apparent that increasing fish consumption has public value far beyond the economic wellbeing of a basic industry.

PRESENT MARKETING PROGRAMS ARE INADEQUATE

Generic seafood education programs are difficult due to the fragmentation of the industry and the commodity nature of its products. The industry, for the most part, is typified by smallish producers attempting to market undifferentiated products through channels and to consumers they cannot influence to any great degree. With few exceptions the industry has been production oriented and has not organized major, long term education efforts. As a result, the current programs must be expanded to make a significant impact on per capita consumption.

One of the goals of the National Fisheries Institute is to increase consumer acceptance of fish and seafood products. It spends approximately 20 percent of its annual income promoting the consumption of fish and seafood. Our marketing efforts include the development and distribution of training and educational materials, point-of-sale materials and brochures, articles for newspapers and trade journals, publication of a monthly newsletter for marketing people called "Fish Tails", and the development of seafood public service television announcements and television material.

Several state and regional organizations also conduct seafood education programs. These include the Alaska Seafood Marketing Institute, the Maine Groundfish Association, the Rhode Island Seafood Council, the Louisiana Seafood Promotion and Marketing Board, and the Regional Fishery Development Foundations.

The financial resources of these organizations are limited and the overall marketing efforts for seafood are relatively small in comparison to those for other foods. Professor Robert D. Buzzell of the Harvard Business School has pointed this out in a recent report on seafood advertizing. He argued that seafood was "under-marketed" and that more should be done. His major points were:

First, at least in the United States, very little is spent on advertising for seafood, in comparison with other foods; second, the industry has not been successful—again, compared with other food producers—in developing successful new products; a third kind of evidence of "under-marketing" is that managers and others in the industry know so little about their markets and their customers; finally, marketing budgets and programs are insufficient relative to the potential that exists; and the potential for improved growth and profitability in the seafood business is excellent.

There has been considerable discussion over the merits of the two approaches to marketing councils provided in the two bills before the Committee. Some would agree that the National Marketing Council, with a mandate to promote seafood generically, is the way to go while others believe the version in H.R. 2935, which provides authority to form marketing councils on a regional or species basis is more appropriate.

NFI believes both are necessary and indeed complement each other beautifully. The national concept of S. 2138 serves to get the ball rolling by an immediate investment in a comprehensive program which would have the effect of enlarging the overall market. The research portion of the council's mandate would provide necessary data to enable effective work by the species groups.

The national concept is relatively short term. It would enhance the climate for the organization of regional or product specific groups which would take time. Then as the national council fades out, there should be a series of marketing groups in place to continue the educational efforts on a more specific basis.

NFI has been asked why should the Federal government be involved in such efforts. There are several key reasons. In respect to providing authority and a mechanism to form the regional or product specific council, the answer is simple equity. The industry's agricultural competitors have had this authority since the 1940's. For years NFI has seen formation of marketing board after marketing board to push everything from avacados to raisins. The concept provided in H.R. 2935 does not involve federal funds. It does provide means for segments of our industry with a story to tell to use government authority to get themselves organized. National policy should be consistent. If agricultural groups can get organizational help, why not fishery groups?

We commend members of this committee especially Sen. Stevens, for their determined efforts to correct inequities in our nation's food policy. After many years our industry is included in those food programs related to export credit guarantees and commodity purchasing. Here's another example where catch-up is needed.

Justification of a national marketing council, using funds from the fishery loan fund, is not as clearcut; nonetheless there is justification for using $25 million of the Fisheries Loan Fund over a four year period.

First, there is significant public benefit to be gained in improving health and reducing the astronomical costs of poor health, especially of cardiac disease. If, as the scientists say, greater fish consumption reduces the risk of heart disease, federal expenditures to accomplish greater consumption will be simply an investment to be returned many times over. The entire proposed budget represents, for example, fewer than 1,000 artery bypass procedures.

Second, a more vibrant market would result in a larger industry, i.e., more employment and return on investment and more tax revenues. Again this is an investment. We have seen that increased consumption can be retained, so that building a larger base over a three or four year time span could continue to provide increased tax revenue and employment indefinitely. Building employment in the fish industry most likely will take place in remote locations, places where other opportunities are few.

Third, equity provides yet another reason for supporting the concept. The marketing opportunities provided by federal law to agricultural products are large and diverse, ranging from thousands of extension agents, to agricultural agents in overseas export markets. It includes billions of dollars in commodity purchases over decades, free inspection services, price supports, crop loans, crop insurance and support for marketing orders and boards. The seafood industry neither needs nor wants all of that, but the $25 million program proposed in S. 2138 would provide some small catch-up in the marketing area.

Fourth, it is important to point out that the funds to be used to help the U.S. industry and consumers have been generated by foreign fishing fees. It is logical that the monies paid by our foreign competitors for access to U.S. resources be used to help develop American use of the same resources.

QUALITY CONSIDERATIONS

We have talked about marketing through the national and regional councils as meaning education and promotion.

The demand for seafood is being influenced by a number of social and demographic trends which are positive. National concern with health and nutrition is growing. Consumers also are seeking more variety, quality and convenience in their food. Seafood is attractive in all of these respects. Nevertheless, certain attitudinal negatives exist that must be overcome if consumption is to increase in the future.

Surveys show that many potential consumers remain uncomfortable with the selection and preparation of fish products. Consumers say they are concerned with the perishability of fish and are fearful of getting sick from improperly stored or prepared fish. Overall, consumers report that they feel a lack of competence and comfort with fish and seafood. This feeling partially explains why so much of the industry's production is consumed away from home.

A study prepared for the Food Marketing Institute in October, 1982, concluded that quality and freshness were the most critical considerations in operating a successful fresh seafood department in supermarkets. If found that "widespread uncertainty about consistent seafood quality appears to be the primary hurdle involved in upgrading potential buyers into regular buyers of fresh seafood." It also concluded that "Seafood was viewed as being extremely perishable, and consumers expressed serious concerns about the possibility of food poisoning."

IMPROVING PRODUCT QUALITY

These studies suggest that per capita consumption could be increased with better marketing. Marketing efforts alone, however, will not boost consumption unless the consumer's confidence in the quality of fish and seafood products is maintained and strengthened. NFI believes that it is time to review the present inspection programs for fish and seafood and design needed improvements to prepare for the needs of 1990 and beyond.

The responsibility of providing wholesome, accurately labeled fish and seafood products to the consumer falls on the industry—both in terms of compliance with federal and state laws governing such matters, and as a matter of self interest in maintaining consumer confidence.

Wholesomeness and labeling are subject to the regulatory authority of both the U.S. Food and Drug Administration and state agencies. This regulation is supplemented by several cooperative programs.

For the most part, FDA focuses on removing adulterated or misbranded products from the marketplace through seizures and recalls. Fish processing plants are subject to spot inspections by the FDA for compliance with sanitation and processing regulations. In addition, certain state agencies conduct plant inspections for compliance with sanitation regulations. Canned salmon is inspected under terms of an industry—FDA cooperative effort. The FDA also prevents adulterated or misbranded imported product from entering the marketplace by selective inspections at the port of entry. In the area of federal-state cooperative programs, mollusks and their growing waters are subject to action under terms of the Interstate Shellfish Sanitation Conference.

The National Marine Fisheries Service provides a voluntary for-fee inspection service for both plant and products to verify compliance to sanitation, processing and product quality standards which exceed the basic requirements of the Food, Drug and Cosmetic Act. Such inspection is required for products sold to the military and some other federal users as well as to some large commercial buyers.

The seafood industry produces wholesome, quality products, despite the unusual circumstances of dealing in highly perishable items which are produced seasonally in remote, at-times primitive locations, and which are at times subjected to uncontrollable adverse environmental conditions.

While actual instances of harm to consumers from commercially prepared products are isolated, even a single incident can have widespread impact and depress sales for many months. In addition, industry and trade perception, and consumer attitudinal studies, indicate a need to achieve more consistently higher levels of product quality to satisfy growing sophistication of consumer expectations, to meet foreign competition and to reduce waste. Finally, the industry recognizes the existence of a minority element which takes advantage of inconsistent enforcement of economic regulations governing product weights and identity. While often self correcting over time, these abuses penalize the legitimate operator and consumer alike.

Significant changes in the production, processing and distribution of fish and seafood are occuring which also suggest that a review of current inspection programs is

needed. New product forms such as surimi are evolving along with new processes, such as controlled atmospheric packaging and irradiation. New sources of supplies from more remote parts of the world are being introduced. New species of fish are being consumed. Aquaculture products are gaining a large share of the total. Environmental contamination continues to impact on coastal production areas.

The traditional role of government in the inspection of other foods is subject to scrutiny at this time. It is logical that seafood inspection be revaluated and restructured to encourage greater consumer acceptance of seafood for sake of ensuring health benefits and to allow the nation to benefit from the significant potential offered by our fishery resources.

NFI believes that government, in conjunction with industry, should study and plan in detail a comprehensive system covering vessels, plants and products. This plan should look to the needs of the consumer and industry five and ten years from now. It should prepare the regulations, the type and intensity of inspection for each segment of the industry based on the types of products, processing techniques, distribution channels, and risks involved to assure wholesome and safe products, accepted minimum standards of quality, and fair, accurate labeling.

This planning step should involve a thorough examination of each segment of the industry, application of most advanced scientific assurance concepts, and determination of inspection procedures and costs and division of such responsibilities between government and industry.

The system should apply equitably to domestic and imported products. It should include provision for segments of the industry to initiate procedures to assure quality levels above minimum requirements.

This planning should be conducted via a special task group consisting of the three federal agencies involved, i.e., Department of Commerce, Food and Drug Administration, Department of Agriculture, representatives of leading seafood producing states, the industry, and consumers.

This planning process should be completed during two years at which time Congress would be in a position to decide whether to proceed, postpone or decline enactment of the recommended program.

Accordingly, we urge the Committee to include a study of fish inspection as a part of this marketing legislation and to authorize the funding needed to carry it out. Such a project could be a directed activity of the National Marketing Council or a separate activity of the National Marine Fisheries Service.

We believe the combination of a National Marketing Council albeit on a temporary basis; the authorization of means of establishing a species marketing council; and a plan to assure wholesomeness and quality in the future would be tremendously beneficial to the public and our industry.

Senator STEVENS. Thank you.

Ms. Vehrs.

Ms. VEHRS. Good morning. We thank you for the opportunity to comment on S. 2138 and H.R. 2935. We have considered both bills, one of which is the centralized or national bill versus a decentralized or regional structural unit. We believe there are benefits to both structures and disadvantages to both structures and therefore what we are recommending is the development of a hybrid.

What I would like to do in my testimony is cover the advantages and disadvantages that we see in S. 2138, those in H.R. 2935, and those in a hybrid system.

The benefits of the centralized generic approach to seafood marketing would be as follows. The general interests of all fishery marketing efforts would be served through the generic promotion of seafood. A national program would help the industry improve quality and efficiency in the marketplace. Additionally, a national program would educate and inform consumers on the use of fish, the ease of preparation, economic ways to serve seafood, and on the nutrituional value of seafood in the diet.

Some of the disadvantages we see in a centralized approach are that a greater share of the cost burden would be placed on the mature fisheries such as shrimp, lobster, scallops, and tuna, which have established their place in the market and are generally more valuable than the non-traditional or developing fisheries, such as bottomfish from the Gulf of Mexico and Alaska.

Another disadvantage. As the developing fisheries gain in the marketplace they would tend to displace the established mature fisheries. Thus, the centralized approach could be taxing a business to support its competition.

Advantages of a regional approach as expressed in H.R. 2935 are that the group marketing specific species is the one most interested in increasing the demand for that product and its value. We see the regional approach as giving the regional industries total flexibility to initiate, design and operate their own program. The regional marketing program, we believe, meets the specific needs of a particular region.

There would be little Government involvement in controlling the council. The NOAA Administrator guides the industry when needed.

Disadvantages of a regional marketing system would be that regional marketing councils might be directed towards independent objectives which could be duplicative or counter to the objectives of other regional marketing councils. It would be difficult to coordinate regional efforts towards generic marketing of seafood through the regional council system. The effort could become piecemeal and regional councils could actually compete against each other without raising overall demand.

A hybrid system. We envision regional councils which would develop their own programs based on the fees paid by their own industries. In addition, there would be a national council whose board is made up of regional council leaders. The national council would engage in generic marketing and provide a forum for coordinating regional efforts. Examples of such efforts could include a national seafood month, annual marketing themes, and coordinated efforts in selected cities.

Under the regional approach, for example, each council might have an independent effort in Chicago. Those independent efforts would be uncoordinated. Under the hybrid concept, the effort could be either coordinated or conducted by the national council.

In the development of a hybrid system we would urge that there be specific qualifications for nominees to the council such that no individual would be eligible for nomination or appointment unless he or she is knowledgeable and experienced with regard to the activities of the sector which that individual would represent on the council.

We recommend that nominees for the central council be chosen from the leadership of the regional councils. We propose that a chairman of the central council be selected each year, as specified in your bill, but that the chairman be from a different regional council to ensure that the different regional perspectives are incorporated into council decisions.

While Government funds may be available to the centralized council for startup, we would recommend a transition, as has been discussed here earlier, where each council could help fund the central council.

The benefits we see in a hybrid approach are that there would be coordination between the regional efforts ensuring against duplication of efforts or detrimental marketing schemes. The central council would support and complement the species-specific efforts of the regional marketing councils. The central council would provide the mechanism and legal support for carrying out the procedures of establishing the species-specific regional marketing councils. In other words, the central council could replace the role of the NOAA Administrator.

Possible disadvantages of a hybrid approach are that the approach is more complicated than either the regional or the central approach separately, and there is uncertainty as to how the central council would be paid for by the regional councils.

We thank you for the opportunity to testify. We would be pleased to work with you in trying to develop a hybrid system. Thank you.

Senator STEVENS. Thank you. Bob?

Mr. MORGAN. Thank you, Mr. Chairman.

The members of the PSPA would like to thank you for your efforts, Mr. Chairman, on behalf of the seafood industry. You have long been a friend of fishermen and processors, and you have shown this by consistently working for the expansion and benefit of the industry.

In 1984 we testified in support of Senate bill 2160, your marketing bill, which eventually passed the Senate, and our position remains much the same on the new version, S. 2138. As seafood processors we have always been supportive of efforts aimed at expanding per capita consumption of seafood by U.S. citzens. For instance, I and other members of our association have had the privilege of serving on the board of the Alaska Seafood Marketing Institute since its inception.

We recognize that cooperative efforts, as represented in ASMI, can create positive results through appropriate promotion and education techniques. It is especially important to note that the success of ASMI is due in large part to the fact that the seafood industry itself is responsible for the direction and initiatives taken by the organization.

We strongly feel that the same should be true of any national marketing group with similar responsibilities. The potential for success of a program such as that in S. 2138 will always be limited unless it is guided by experienced seafood industry people.

Another crucial point is that we must guard against the program becoming a centralized bureaucracy in Washington, DC. Although we realize that it is certainly not the intention of the bill, it is also true that whenever the money for a program comes from Washington the decisionmaking tends to get centralized in Washington. This would be a serious mistake.

If the program proves successful, we would support the idea of polling the industry to see if the backing is there for switching the program's funding to an industry assessment basis. Given the Federal budget situation, it must be recognized that the long-term future of the marketing effort envisioned in S. 2138 does not lie in Federal funding.

The association has no comments on specific provisions of the bill, since those were presented at the earlier hearing, and we are pleased that most of our suggested changes have been incorporated in S. 2138.

Let me now turn to H.R. 2935, Mr. Breaux's regional seafood marketing bill which has already passed the House. As I mentioned earlier, PSPA has been an active participant in the regional marketing approach taken in Alaska by ASMI. With this in mind, it is not surprising that we also support the regional program in H.R. 2935, which would permit various segments of the seafood industry to decide if they wish to set up marketing boards funded through self-assessment.

We do not feel that the approaches taken in S. 2138 and H.R. 2935 are incompatible, and we hope that the interested parties in both the House and Senate will be able to reach an accommodation on a final bill.

I would like to conclude by again expressing the association's appreciation of the endeavors of the members of the Commerce Committee in assisting the nation's seafood industry. We are supportive of S. 2138 because we know that you share with us a desire to increase the consumption of seafood domestically, to promote exports, and to improve cooperative industry-Government efforts in pursuit of these goals. I, along with members of the association and the association staff, stand ready to work with you further and offer any possible assistance.

Thank you.

Senator STEVENS. Thank you very much.

Mr. Burney.

Mr. BURNEY. Thank you, Senator.

I do not want to turn this into a testimonial, however, on behalf of the U.S. tuna industry I would also like to thank you for the efforts tyou have put forward in promoting U.S. seafood products and the U.S. fishing industry. We have found that through your effort in opening up of the surplus commodities program there has been a far greater participation by fisheries products. This has been extremely beneficial to us.

As you know, we are going through kind of a severe economic crisis right now. This program in and of itself has benefitted a number of people in our industry, specifically the boats that have felt the brunt of the problems that we are going through. Because of your efforts we have been able to use a lot of the excess tonnage, which otherwise may have gone to waste, of the surplus commodities program. We want to thank you for that.

In earlier testimony I was a little bit equivocal in my support for the type of approach that you have outlined in your current bill. Mainly we were trying to separate in our own minds the difference between promoting seafood products and marketing seafood products. We believe that there is and should be strong support for a national program to promote seafood. We hope that the program can be more clearly defined as promoting U.S. seafood products.

We do believe there is a necessity for such a program. We believe that the marketing aspect of the program should be conducted on a regional basis. We find even with tuna products that the way the product form is presented, whether fresh frozen or canned, necessitates differing marketing techniques. Also different marketing strategies are necessary for each region of the country.

The tuna industry is not interested in just one region. We are interested in promoting and marketing tuna throughout the United States. As we market from one region to the other we have realized that different marketing techniques are necessary. I would think that everyone that is involved in the seafood business would find this to be true as well.

It is also true that if you have an industry that is primarily located in one location all of your marketing decisions are made in that particular location. Certainly regionalizing the marketing approach will benefit these people as well.

Therefore, I guess our bottom line is yes, we support a national promotional program, and we think that there is also a benefit in maintaining a regional approach for marketing.

We indicated once before that we are kind of a hybrid when it comes to regional councils. We do not have representation on any of the regional fishery councils because we are a distant water fishery.

In the approach that has been taken in setting up this national marketing council once again we have no assurance that we will have representation. This is true even though we represent 24 percent of the consumption of seafood products in the United States. We think that this is an inequity.

If you are going to have a national council for promoting seafood the various traditional fisheries in this country that represent a great majority of U.S. seafood consumption should be represented. We would like some assurance that this inequity will be corrected.

We support the objectives of S. 2138. We think it has tremendous potential. Whether or not we would participate in a regional marketing council, should that be developed remains to be seen. As I have told you before, we are competing with a great influx of imports and we have found that our marketing approach has to be brand-specific in order to compete. However, we support S. 2138 on behalf of all of our colleagues in the fishing industry.

There were a couple of comments made here today that I was not anticipating. They dealt with the need for increased inspection and enforcement. If this is necessary to clean up what was claimed to be a problem with shrimp we support the effort in this limited regard. We certainly do not support it across the board. We are already burdened with so many regulations that it is very difficult for us to compete with imports. We do not want any more burdens placed on us.

Thank you.

[The statement follows:]

STATEMENT OF DAVID G. BURNEY, COUNSEL, UNITED STATES TUNA FOUNDATION

Mr. Chairman and members of the Senate Committee on Commerce, Science, and Transportation, I appear today on behalf of the United States tuna industry for the purpose of offering testimony with regard to S. 2138, a bill which would establish a National Fisheries Marketing Council.

For those not familiar with the United States Tuna Foundation, it is a non-profit, mutual benefit corporation representing each of the segments of the United States tuna industry, including tuna vessel owners and operators, tuna vessel crew members, tuna processors, and cannery workers.

The tuna industry supports the objectives of S. 2138 & HR 2935 and we recognize that a National Fisheries Marketing Program could be beneficial to certain segments of the United States fishing industry.

While a generic marketing approach could enhance the development and consumption of certain under utilized and non traditional fishery products it is our opinion that it would have little effect on the marketing of some traditional fisheries products, such as canned tuna. It is for this reason that we believe that participation in any Marketing Council should be on a voluntary basis.

Since it's inception in 1903 the tuna industry has expended a great deal of time, energy, and money developing a highly successful marketing program for it's canned tuna products. This is clearly evident when we compare the first pack of 700 cases in 1903 to the 31 million cases packed in 1984. Canned tuna accounts for 24% of the consumption per capita of fish and shellfish in the United States making the United States the largest consumer of canned tuna.

The success of our product in the market place has percipitated a massive influx of imported canned tuna to the point that the domestic industry is presently having serious economic difficulties. We have watched the foreign imports grow from 8 percent of domestic production to over 40 percent since 1980.

While the tuna industry does not believe that it is in its best interest to participate in a Marketing Council, it does support the need for the establishment of some form of coordinated marketing effort to assist the underutilized and less established fisheries. We believe that S. 2138/H.R. 2935 may offer this opportunity but respectfully suggest that certain revisions should be considered.

First, we strongly support voluntary participation in any Marketing Council. Secondly it is our view that a National Council, as now proposed in S. 2138 is too large and cumbersome. The quality of individuals serving on the Council is far more important than the quantity. If the Council is to create and maintain a national marketing program, it is essential that its members have experience and expertise in marketing. The desire to balance the Council between harvester and processor and have all georgraphical regions represented does not appear to promote this objective.

If what is envisioned is merely a National Council to promote the overall consumption of seafood in the United States, then consumer education should be the main objective and specialists in the promotional field should be utilized. However, if the objective is to accomplish the purpose of the Act as spelled out in Section 3 of S. 2138 we must recognize that all seafood products cannot be marketed in the same manner nor can one marketing strategy be used for all sections of the country.

We therefore feel that separate regional Marketing Councils, that can be more species-specific are a more preferable alternative. This would allow the various segments of the fishing industry that need assistance in expanding their markets to form a Marketing Council without involving the segments that have already gained nationwide acceptance of their products.

We thank you for giving us the opportunity to share our views with you.

Senator STEVENS. One of my problems has been, as I look at the Department of Defense, and other Government purchasing programs, I notice that inspection is required. The reason we have not been able to get seafood into many of those Government programs is that there is a requirement either in law, or in existing regulations pertaining to purchase of the food supplies, that the products be inspected. When we look at it, we find that in the case of beef and poultry, for instance, the cost of the inspection program is entirely borne by the Federal Government.

There is no industry payment for beef and poultry inspection, and seafood must pay for its inspection programs. You cannot sell to certain Government agencies unless they are inspected, so that is a locked door right now for seafood products and we have to find some way to solve the inspection problem.

I do not think we can legislate an inspection requirement, nor does it seem apparent right now we could get total inspection at Government expense because of the great diversity in the areas where seafood inspection would take place. It is pretty obvious that for beef and pork you inspect the slaughtering houses. Seafood inspection may be more complicated, I think that if we are really to expand the domestic market sufficient to assure that we have a market all fishery resources within our 200-mile limit, then it seems to me that the inspection problem is the key.

The Government purchase programs will be critical. I am just saying purchases of I have looked at these Government purchasing programs and they are substantial. I am talking about military, and prisons, various other areas of Government purchasing. In school lunch program alone, just one fish patty per week per child, and you are talking about a btremendous amountf processed product. The markets are there, and I think we have to look at this inspection problem. It is not part of this bill—do not misunderstand me—but I think the industry has to be aware of this problem, and the high hurdle it represents to expanded markets as far as Government purchases are concerned. Your comment elicited my comment on that.

NFI, I think, has a great role to play in this legislation. I do not want to cause a controversy at your table, but I am impressed with the comment that the national program should be a promotional concept and that the regional program should be the marketing concept.

Would NFI find any problem with that?

Mr. WEDDIG. I think it depends on definition, Senator, in that if one includes selling as part of marketing then I do not believe that marketing should be done by any of these organizations. Sales have to be done by the individual companies that have product to sell. So my feeling about that is I have always considered the term "marketing" as used in this proposed legislation and others before it as meaning promotion and education and research.

We would see the national function being fundamentally one of generic education. In the regional or specie groups that would be formed that their range of activities could get into topics that would be considered marketing by some but the stopping at outright sales—things like demonstrating product within supermarkets and so forth. Some people might say that is marketing and if that is the case, yes, that would belong at the regional level, not at the national council approach.

So we have no basic disagreement with what Dave said, as long as the terms are compatible here, definitions are compatible.

Senator STEVENS. I think there is a problem with semantics here to a certain extent, Mr. Burney, because I think my intentions were closer to what you said than what my bill says. It is education and promotion in

the sense of the generic health benefits, the total concepts of awareness of domestic production, as opposed to the specific advertising campaigns that I think ASMI has done for Alaska.

The new ASMI salmonburger campaign is, I think, going to be very successful. The whole concept of switching to emphasizing the benefit of canned salmon is a regional business. I would not expect the national people to get involved in that type of promotion. I do not think we are apart, and I would like to pursue that further with you as we go along.

I am a little worried about the referendum concepts that are in the bill and I know that, Ms. Vehrs, you have commented to a certain extent about that, too. We would be pleased to pursue that with you. Additionally, your analysis of the hybrid bill is quite on point. Obviously if we are going to get this bill of mine through the House we are going to have to look at the regional aspects, and if the bill in the House is going to get through the Senate they are going to have to look at the national aspect. So I think you are pretty close to being on the mark in terms of your analysis.

I would ask you all about the real problem that Ms. Vehrs has commented on, and that is whether or not we can really expect that in the long run there will be enough support from the regionals to maintain a national marketing concept if we start it, because I think you are right. Ultimately the contribution has got to come from the regional councils to the national board.

We envisioned to start with in the last bill that there would be a contribution of the national money to the regional concept to get started, but that has got to be reversed if it is going to go on an industry support basis. Do any of you have any fears that the councils will be unable to make the transition?

Mr. WEDDIG. Mr. Chairman, one observation that came up this morning in some discussion among us about the proposals is that a function of the national council could very well be to provide the funding to conduct the referenda for the regional and specie groups. One of the deterrents that I see for getting regional and specie operations off the ground is the need to have an investment up front for the referenda.

Right now under the House bill I believe it calls out that the Department would do this, but in the event the referenda failed there is a bill to be paid, and I think there would be reluctance on the part of industry leaders to come forward and say well, I will underwrite that in the event it does not work.

A function of the national council to get the thing rolling could be that a portion of that funding could be there to provide the mechanism and the funding to get these referenda and surveys performed, which would get the regional groups in operation. Then, to respond to the question of whether a series of regional groups, once in operation, would in turn support a national group, I am not too sure it is necessary once you get the program rolling.

There have been studies made by people in terms of generic education and promotion that suggest that a greater benefit is achieved by a multitude of individual specie or product campaigns that together make

up a mass reaching the consumer. So it is quite possible that if you get enough large-scale regional and specie programs rolling that they would overcome the need for a central generic educational effort, that mass together would actually be more effective than a single generic program.

Now that is a theory advanced by some who have studied this. So I am not too worried about whether the regional groups would eventually support the continuing national effort. It may not be needed, if you get enough regional groups moving.

Senator STEVENS. Well, I understand what you are saying. I am not sure that the beef marketing board would survive right now were it not for the Federal support of the beef inspection program, and the same thing with poultry. I think we have to look at some of the basic costs that are there, and the referendum costs. Are the referendum costs supported by the Federal Government now? I believe many of them are.

The position of the administration makes little sense when you look at other commodities. I think we have to get started somewhere.

Are any of you worried about the domination of either the regional council or the national council by big business, by those seafood companies that are national in scope to start with? That is a view that has been expressed. I remember when I was in Boston was that not one of the objections, Ken, expressed up there. The industry is comprised of traditionally independent harvesters, independent processors, and some are concerned that there are national interests coming on the scene right now that could in effect take over any national council.

Is that a realistic fear?

Mr. WEDDIG. Well, Mr. Chairman, if you look at the overall mix of companies within the National Fisheries Institute membership, we have about 1,200 firms, and of that group, one would consider less than 20 to be truly national marketers. If the council is made up along the lines as proposed in your bill, where the membership would be appointed and it is specified to be by regions, with a different makeup of that council, I cannot see how it would be dominated.

Senator STEVENS. Well, I appreciate the fact that you have presented a record for us that I think will enable us to mark up these bills. I want to thank all of you for your support. Obviously I am grateful for the kind comments. I will tell you all that we are proceeding in other areas now as far as Government programs are concerned, and I think that that is the one place that we can literally expand domestic markets for domestic products that imports cannot invade.

We have to do more to identify those programs and to make the managers of those programs aware of the discriminatory factors in their current purchasing mechanisms. So we are going to continue to work on that beyond this bill.

Thank you all very much.

[Whereupon, at 11:59 o'clock a.m., the Committee adjourned.]

ADDITIONAL ARTICLES, LETTERS, AND STATEMENTS

STATEMENT OF HON. BILL SHEFFIELD, GOVERNOR, STATE OF ALASKA

Mr. Chairman and members of the committee, the seafood industry in Alaska represents one of the most important components of our State's current economy. As Alaska's largest private employer, the processing and marketing of seafood products annually provides some 45-50,000 jobs while supporting an additional 10,000 fishermen and their families. Measured wholesale, our traditional salmon, crab, halibut, and groundfish production is valued as high as one billion dollars annually. We believe that the additional three million metric tons of domestically underutilized pollock, cod, and flatfish resources available in the Gulf of Alaska and the Bering Sea will equal or exceed the value of our traditional fisheries once the promise of the Magnuson Fisheries Management and Conservation Act is realized.

From the viewpoint of development, there is no single component of our existing and future fisheries business more important than market development and no single market more important than the market found right here in the United States. It is this conviction that leads Alaska to support the creation of the National Fisheries Marketing Council established by S. 2160 and indeed has led to the creation of our own marketing organization, the Alaska Seafood Marketing Institute. With programs created and monitored by an 18 member Board of Directors, our marketing institute spends three to seven million dollars each fiscal year generically promoting and advertising Alaska's seafood products.

Critical to the marketing institute's success and, we believe, to the future success of the proposed National Fisheries Marketing Council is the active and meaningful participation of the industry. It has been our experience that the development of marketing strategies, plans, and programs should be left to those who best understand the marketplace and the industry itself. As a measure of the confidence and respect earned by the marketing institute's industry guided program, our industry, fishermen and processors alike contribute nearly a half million dollars annually over and above assessments in the form of personnel time and out of pocket expenses. It is this level of interest and commitment that ensures the success of our marketing institute. As proposed in S. 2160, the National Fisheries Marketing Council provides for the type of meaningful industry direction required for successful program development, and it is this component which lays the foundation for our support.

It is our hope that the proposed council would establish the critical, and currently, missing link between private and public fisheries development activities and the U.S. and international marketplace. Typically, state and federal fisheries development programs, have been production oriented. It has become clear that a critical component of fisheries development is the application of the same sophisticated marketing techniques used by other food producers. This bill would provide this component.

A National Fisheries Marketing Council would not only promote fisheries products, but also educate and inform consumers. In addition, such a council could focus the attention of the industry on the U.S. and international marketplace. This, we believe, would lead to a more rapid displacement of foreign fishing and processing in our Fisheries Conservation Zone and would create a healthier and more competitive position for America's fishing industry in the world marketplace.

Thank you for the opportunity to present our views on this important legislation.

STATEMENT OF ELDON V.C. GREENBERG, SOUTHEASTERN FISHERIES ASSOCIATION, INC.

Good afternoon. I am Eldon V.C. Greenberg, a partner in the Washington, D.C. law firm of Galloway and Greenberg. I am pleased to appear before the Subcommittees today to present the views of Southeastern Fisheries Association, Inc. ("SFA")

concerning H.R. 277, H.R. 3156, H.R. 4407, H.R. 4451 and H.R. 4465 (collectively, the "bills"), proposed legislation seeking to address the liability and safety problems currently confronting the U.S. fishing industry. SFA believes that the bills all represent a step in the right direction and that it should be possible for this Congress to meld together the various proposals into a final package which will be of great benefit to the commercial fishing industry in the Southeast.

SFA, which is headquartered in Tallahassee, Florida is the largest commercial fisheries trade association in the Southeastern United States. It has more than 400 members from all sectors of the commercial fishing industry—harvesting, processing and marketing—from North Carolina to Texas. Many of SFA's members are vessel owners, and, as an association, we have become increasingly concerned about the insurance problem, especially the cost and availability of protection and indemnity ("P&I") insurance.

Under a Saltonstall-Kennedy grant from the Commerce Department, SFA is currently putting together a loss control and risk finance program for vessel owners in our region. While we hope that this program will help both to enhance safety and to bring down the cost of liability insurance, its implementation—and the implementation of other similar programs around the country—will not obviate the need for legislative initiatives such as the Subcommittees have under consideration today. Public and private initiatives are complementary, and the enactment of reforms in the liability system plainly will enhance the prospects for success of mutual and group insurance programs undertaken by industry organizations such as SFA.

The seriousness of the liability and insurance problems besetting the fishing industry is well documented, and there is little need to dwell further on this subject. In an informal survey of its members last winter, SFA found that its boat owner members, while for the most part still able to get insurance, almost universally have experienced major increases in the cost of P&I insurance over the last several years. At the same time, P&I insurance represents an increasing percentage of the insured value of the owners' vessels. The increase in P&I premiums from 1982 to 1985 was typically in the range of 20–50%, with the average being 30%. These costs are rising substantially faster than the rate of inflation. The result is that insurance premiums today constitute a much higher percentage of operating costs than they did several years ago, and in turn an operator's ability to run a profitable business is significantly diminished.

At the same time, the prognosis for P&I insurance in Gulf and South Atlantic fisheries is not good. While P&I insurance is still available, the availability is decreasing: a number of companies no longer provide P&I insurance in the Southeast, and others may well be on the verge of getting out of the business. If current trends continue, there is no question that we will soon have an insurance "crisis" on our hands. Either we will have vessel owners who operate with P&I coverage, at substantially reduced profit levels, perhaps threatening the viability of their business, or we will have vessel owners who operate without any P&I coverage, thereby likewise threatening the viability of their business. The situation is obviously unacceptable in both cases.

Over the past year, the Subcommittees have done an excellent job in carefully and thoroughly gathering and examining the facts. Plainly, it is now time to begin to put some solutions in place. In the remainder of my testimony this afternoon, therefore, I will concentrate on the specific legislative solutions contained in the bills. My statement will be divided in four parts: first, I will discuss why legislation separate from general overhaul of the liability and insurance system is appropriate for fisheries; second, I will examine those elements of the bills that relate to the reform of the liability system; third, I will assess the various safety initiatives embodied in the bills; and, fourth, I will suggest one additional element that might be made part of the overall legislative approach to fishing vessel safety and liability.

I.—THE NEED FOR SEPARATE FISHERIES LEGISLATION

Unquestionably, the cost and availability of liability insurance are problems affecting many sectors of the U.S. economy today.[1] In response to the nationwide insurance predicament, in October, 1985, the Attorney General established a Tort Policy Working Group, which has just issued a report setting forth a number of general recommendations for relieving the current crisis.[2] The Administration, it ap-

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[1] *See e.g.*, Sorry, Your Policy is Cancelled", *Time*, March 24, 1986, pp. 16–26.

[2] *Report of the Tort Policy Working Group on the Causes, Extent and Policy Implications of the Current Crisis in Insurance Availability and Affordability* (February 1986) (hereinafter "*Tort Policy Working Group Report*").

pears, is now drafting legislation to implement these recommendations.[3] In light of such developments, it might be argued that any fisheries liability legislation would be premature and/or unnecessary. However, for at least three reasons, SFA submits that, while elements from the Administration's package of recommendations may be relevant to fisheries' concerns, fisheries should be treated separate and apart from the general tort liability problem.

First, it appears likely that the Administration's proposals will not cover the kinds of liabilities faced by vessel owners and operators. Press reports indicate that, at this time, the Administration is only contemplating two new pieces of legislation: one focusing on product liability and the other proposing changes in the Federal Tort Claims Act.[4] Plainly, in such circumstances, work needs to go forward on free-standing fisheries legislation.

Second, the rules concerning liability for injuries to fishermen derive from federal, rather than state, law, i.e., from general maritime law and the Jones Act. Just as in the past this scheme of liability has been dealth with by the courts and the Congress in a fashion separate from the general tort liability system, so now it makes perfect sense to proceed independently with reform of maritime liability rules.

Third, any general overhaul of the tort liability system will take years to accomplish. With rights under 50 state laws at issue, and with virtually every sector of the economy affected, it is readily apparent that the legislative task will be a massive one. The momentum which we have gained over the past year and a half to resolve the immediate problems of the fishing industry should not be sacrified in the hopes of eventually accomplishing such a global reform.

II.—REFORM OF THE LIABILITY SYSTEM

The liability reforms embodied in the bills fall into roughly four separate categories: limitations of liability; elimination or reduction of non-pecuniary damages; limitations on attorneys' fees; and reduction in the time period for the statute of limitations. I will address each of these inturn.

(A) Limitations of liability

Four of the five bills (H.R. 277, H.R. 3156, H.R. 4407, and H.R. 4415) seek effectively to limit the liability of vessel owners and operators to injured crewmen. SFA would support as the most sensible and workable solution the combination (with some modification) of the specific approach to fishermen's injuries found in H.R. 4415 with a general limitation on liability such as that proposed in H.R. 3156.

In essence, H.R. 4415 would allow a boatowner to limit his liability for damages to an injured crew member to lost wages and other compensation, if he otherwise fully compensates the crew member for hospital and medical expenses and provides maintenance at a daily rate of $40.[5]

This proposal derives in part from the recommendations set forth in Professor Dennis Nixon's study, "Fishing Vessel Injury Alternative Compensation Analysis," sponsored by the National Council of Fishing Vessel Safety and Insurance. It is an approach which has the virtue of being simple and easy to understand. By restricting damage recovery to lost wages and other compensation—and so eliminating recovery for non-pecuniary damages—it establishes a fairly predictable and practical (if not fixed) limitation on recoveries which is reasonable in amount.[6] At the same time, by providing assured maintenance at an adequate level,[7] as well as full coverage for medical and hospital expenses, it is a system which is fair to the injuried crew member.[8]

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[3] *See, e.g., Wall Street Journal*, April 1, 1986, p. 6; *The Washington*, March 21, 1986, p. 1.

[4] *Wall Street Journal*, April 1, 1986, p. 6.

[5] H.R. 4415 is somewhat ambiguous whether any maintenance received would be an offset to damages recovered. Plainly it should be. Otherwise, a plaintiff would in effect have a double recovery of lost compensation. Cure, of course, should not be treated as an offset.

[6] As discussed later, *see* page 9, *infra*, to assure even greater predictability, an actual dollar cap is also desirable, so that the maximum exposure of a boat owner or operator is known in advance.

[7] While H.R. 4415 establishes a maintenance level of $40 per day, Dennis Nixon's study, based upon an evaluation of industry-wide practices, suggests that $30 per day is appropriate. $30 per day would seem to be reasonable based upon typical compensation levels to crews in Gulf and South Atlantic fisheries. Thus, SFA would support the slightly lower maintenance figure.

[8] SFA would recommend two changes in H.R. 4415 which, in combination with other modifications discussed later in this testimony, would provide even greater certainty within the system. First, the concept of liability to a crew member while "in service" to the vessel should be legislatively limited, perhaps through a "sign in/sign off" procedure, so eliminating claims wholly un-

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H.R. 4407 also is based in part on Dennis Nixon's study, and it attempts to do much the same thing as H.R. 4407. However, the limitations it establishes are too complicated to be effectively workable. H.R. 4407 would eliminate any action under the general maritime law against the owner of a vessel if an illness, disability or injury is for a period of less than one year and if the employer provides cure for the ill, injured or disabled crew member and maintenance at an adequate level (Secs. 21, 22).[9] The problems with H.R. 4407 are esentially three-fold. First, the limitation of liability is only available where the vessel is in compliance with the safety regulations Title II of this bill would authorize and impose (Sec. 21(a)(2)). Since even a trivial violation of any regulatory requirement, wholly unrelated to the damage claim, would disable the owner from limiting his liability, this opens a tremendous loophole and would surely be raised in every case, thus offering the prospect of endless controversy and much uncertainty concerning an owner's ultimate liability. Second, the complex procedure estalished by H.R. 4407 to determine whether a crew member will or will not be fit for duty within one year (Sec. 22(a)) promises to be extremely difficult to implement and will likely lead to innumerable disputes, which will be expensive and time-consuming to resolve.[10] Third, the effective limitation of liability is substantially less under H.R. 4407 than under H.R. 4415. For permanent disabilities, even pecuniary damages are not just limited to lost wages, while recovery from non-pecuniary losses would be permitted up to $350,000 (Sec. 22(a)). Thus, H.R. 4407 perpetuates substantial uncertainty with respect to an owner's exposure in tort litigation.

In connection with either the approach embodied in H.R. 4415 or H.R. 4407, a general limitation on liability would be complementary and, in SFA's judgment, still required to provide the certainty of an ultimate cap on exposure. Such general limitations would be established by H.R. 277 and H.R. 3156. Between the two, SFA prefers the approach of H.R. 3156, which would limit liability to $600,000 per incident per vessel, rather than H.R. 277 which would limit liability to $1 million per incident for each vessel of less than 500 tons—the category in which most vessels in the Southeast would fall. Even the $600,000 figure, however, appears on the high side. If, for example, the lost compensation approach of H.R. 4415 were enacted into law, a 20 year old crew member with an earning capacity of $20,000 per year would, if disabled for life, hypothetically be able to recover $1,000,000 (assuming a 70 year life span). Using an 8% discount rate, a lump-sum payment of $244,671 would give the crew member that annuity value. A cap at or perhaps slightly above that figure, i.e., $300,000, would thus seem appropriate. Further, it would be surprising if, once a limitation of liability were established, lenders would insist on insurance coverage up to that limitation. Today, however, coverage at a level as high as $600,000, at least in the Southeast, is unusual: lending institutions typically establish limitations on P&I for financed vessels in the range of $100,000 to $300,000 per crew member, and the small vessels operating in the Southeast more often than not do not have earnings to support higher levels of insurance. Plainly, it would be counterproductive to establish a limitation of liability which might well result in increasing the per vessel cost of insurance.[11]

(B) Limitations on recovery of non-pecuniary damages

One effective way to limit tort recoveries and provide greater predictability in a liability system is to cut back sharply on a claimant's ability to recover for non-pecuniary losses, i.e., for pain and suffering, loss of consortium, mental anguish, etc.

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related as a practical matter to a crew member's real service to the vessel. Second, crew members should be required to report any accidents within a specified number of days after their occurrence.

[9] The maintenance level in H.R. 4407 and H.R. 4415 are roughly the same. Under H.R. 4415, a crewman would obtain $14,600 per year and under H.R. 4407, a crewman is guaranteed at least $15,000 per year. As noted above, both figures may be somewhat high.

[10] Because the medical panel's determinations would not be binding, the procedure may not even cut down on *de novo* litigation on the length of disability question.

[11] While H.R. 3156 woud establish general financial responsibility requirements for certain classes of vessels up to the limitation of liability, it would specifically exempt "fishing or fish tender vessels from such requirements" (Sec. 30302(a)(6)). Given the level of insurance currently maintained by the fishing industry, not forcing boat owners to obtain insurance coverage or otherwise demonstrate their financial responsibility at the $600,000 level makes sense, and SFA believes that the exemption should be maintained. I would note further that H.R. 3156 would exempt "recreational" vessels from any financial responsibility requirements (Sec. 30302(a)(2)). Since a recreational vessel is defined as one "(A) operated primary for pleasure; or (B) leased, rented, or chartered to another for the latter's pleasure" (Sec. 30101(5)), SFA reads H.R. 3156 as not subjecting charter boats to any new financial responsibility requirements. This exemption, as well, should be retained.

Both H.R. 4407 and H.R. 4415, as noted above, use this technique, although in differing fashion. SFA favors the approach embodied in H.R. 4415, i.e., the complete elimination of claims for non-pecuniary damages, rather than a dollar figure limitation of the sort found in H.R. 4415. It is plain that the greatest potential for abuse of the tort system—and the greatest generator of uncertainty—lies in recoveries for these subjectively determined and amorphous damages. If, however, any non-pecuniary losses are to be compensated, the limitation should be lower than the $350,000 proposed by H.R. 4407. The Tort Policy Working Group, after extensive analysis, recommended $100,000 as a reasonable limitation.[12] This limitation, the Working Group concluded, "would affect only a relatively small percentage of all claims, but would introduce substantial predictability into the tort system." [13] Any allowance for such damages under maritime law should be no greater.

(C) Limitations on attorneys' fees

Limitations on attorneys' fees would help to eliminate another significant element of uncertainty generated by the current tort system. H.R. 4407 seeks to deal with this problem by providing for judicial review of attorneys' fees to determine the reasonableness of the fee, considering "all relevant factors" (Sec. 22(a)). While SFA appreciates the intent of H.R. 4407, it believes that the specific mechanism chosen would prove unwieldly.

H.R. 4407 specifies a number of "relevant factors" for the courts to consider. Unfortunately, the process of doing so promises to be complicated, and a virtual trial, with all its attendant time and expense, might be required finally to make a determination of "reasonableness". At the same time, putting a premium on these various factors as a condition for an award may stimulate attorneys to run up actual costs in early stages of litigation and to delay settlement, if not avoid settlement altogether.

SFA believes that a simpler approach to deal with attorneys' fees is to establish a percentage limitation on fee recoveries, rather than leaving the determination of a proper fee up to the discretion of the court.[14] A straight percentage schedule is likely to avoid extensive disputes over attorneys' fees and would provide predictability in the process. There is substantial precedent for it under other statutes, such as the federal Tort Claims Act and the Social Security Act.[15] Adding such a limitation to the liability bill which finally is approved by the Subcommittees would be desirable.

(D) Reduction in the statute of limitations

Lastly, some reduction in the statute of limitations—currently three years—may provide greater predictability to the system. H.R. 4407 provides that "a seaman must bring a civil action against the owner of the vessel and seaman's employer within two years from the date the cause of action accrued" (Sec. 22(c)). SFA thinks this is a useful change, with no real downside. It should be incorporated in any legislation approved by the Subcommittees.

III.—SAFETY INITIATIVES

Improving the industry's safety performance is a neccessary complement to reform of the tort liability system. Safety is not only important for its own sake, but, if the rate and severity of injuries in the fishing industry remain high, then, regardless of tort reform, P&I insurance costs will be unlikely to come down.

Despite SFA's strong commitment to saftey improvements, it seriously questions whether an elaborate federal regulatory regime is required at this time. The Coast Guard, as the Subcommittees are aware, has made substantial progress in carrying out its "Uninspected Fishing Vessel Initiatives". In the past six months, it has published for comment five Navigation and Vessel Inspection Circulars ("NVICs"), covering almost all aspects of fishing vessel design, construction and equipment safety. At the same time, its safety awareness/personnel qualifications program, in particular as reflected in the development by the North Pacific Fishing Vessel Owners' Association ("NPFVOA") of a crew safety manual, is moving forward at a steady pace. Voluntary trade association programs, such as SFA's, are already relying on both the NVICs and the NPFVOA's crew safety manual. Over time such voluntary stand-

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[12] *Tort Policy Working Group Report*, pp. 66–69.

[13] *Id.* at 68.

[14] The Tort Policy Working Group recently recommended a schedule for fee recoveries as follows: "25% for the first $100,000; 20% for the next $100,000; 15% for the next $100,000; and 10% for the remainder." *Tort Policy Working Group Report*, p. 72.

[15] *Id.*, p. 73.

ards promise to become industry-wide in nature, especially because insurers as well as lending institutions will likely insist upon compliance for a P&I policy to be issued and maintained. In such circumstances, a mandatory federal regulatory program appears unnecessary.

All this is not to say that certain safety requirements might not be laid down by regulation. Both H.R. 4415 and H.R. 4465 seek to enhance vessel safety by requiring the Secretary of Transportation to prescribe regulations for a limited number of items of basic safety equipment, i.e., exposure suits, emergency position indicating radio beacons, life boats or life rafts, visual distress signals, communications equipment, etc.[16] In principle, SFA supports such a limited, well-defined set of federal safety rules. Even in connection with H.R. 4415 and H.R. 4465, however, SFA would note that there is a need to tailor regulations to the specific needs of particular fisheries and so avoid the imposition of unnecessary cost burdens. Survival or exposure suits, for example, do not appear necessary in the warm waters of the Gulf of Mexico and, indeed, may degrade in tropical climates. Consequently, the bills should provide for exempting certains classes of fishing vessels from their requirements where there is no demonstrable need therefor.

More extensive requirements, such as those which would be imposed by H.R. 4407, are not desirable. Under Section 201 of H.R. 4407, the Secretary of Transportation would be mandated to prescribe an open-ended and potentially massive set of regulations governing fishing vessel safety. Because there are so many different kinds of vessels operating under so many different conditions in the United States, this program promises to be complex and controversial, and its ultimate workability must be subject to doubt. SFA suggests that it is wiser to wait and see how the Coast Guard's voluntary initiative works out before any decisions are made to impose such broad scale federal regulations.

Likewise, the provisions of H.R. 4407 relating to licensing and training (Sec. 204) are troublesome. SFA questions whether it is reasonable and/or feasible to mandate that the "owner, charterer or managing operator" train any individual in vessel safety and emergency procedures based on an approved training manual before engaging that individual on a vessel. Quite apart from there being many questions just what this requirement means—How extensive must the training be? How long should it take? Etx.—the frequent turnover of crews in the Southeast, with the nature of business often dictating last-minute hires, could render such a requirement, depending upon how it is interpreted, practically impossible to meet. Further, a requirement that all masters be licensed, however desirable that may seem in the abstract, is likely to be unworkable in practice. There are more than 6,000 shrimp vessels alone larger than five gross tons operating in the Gulf of Mexico and the South Atlantic. Given the Coast Guard's limited resources, the licensing of masters would be a process that could well bog down and, in any event, would likely run on for an extensive period, creating substantial uncertainty in the interim as to just who would be authorized to operate fishing vessels. In short, SFA believes that at that time it is still better to rely upon trade associations and individual companies to assure the compentence of masters and crews; only if current voluntary efforts fail should mandatory training and licensing be pursued.

Finally, and relatedly, the enforcement provisions of H.R. 4407 (Secs. 4504-4507) are overbroad. For example, the shut down of operations based upon subjective judgments as to whether "a vessel [is] being operated in an unsafe condition" or whether "the operation creates a hazardous condition" (Sec. 4505) vests potentially Draconian authority in enforcement officials. SFA suggests that, particularly if only a limited set of federal standards are eventually mandated, the broad array of enforcement authority which H.R. 4407 would confer upon the Secretary makes little sense.[17]

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[16] H.R. 4465 would also require "that any motor vessel engaged in fishing as a regular business be certified by a marine surveyor as stable for the purpose upon entering into any fishery [from another] if such transition would require significant changes in equipment or operational techniques as compared to those employed by such vessel previously." Such a requirement, while basically sensible, should be narrowed in scope to apply only to those changes significantly affecting loading characteristics. There may also be some question whether surveyors, as opposed to naval architects, have the expertise to make the required judgments.

[17] H.R. 4407 contains two additional elements related to safety: first, new requirements related to vessel casualty statistics (Sec. 205); and, second, an amendment to the Magnuson Fishery Conservation and Management Act requiring that "[c]onservation and management measures . . . take into account the effect those measures will have on the safety of fishing, fish tender, and fish processing vessels and crews . . . " (Sec. 301). Both these new requirements are straightforward and should not be overly burdensome. SFA supports them.

IV.—THE NEED FOR A REINSURANCE FUND

SFA recognizes that the bills are focussed upon liability and safety problems and do not directly deal with insurance as such. They are, indeed, premised upon the assumption—an assumption which we believe is generally correct—that if the liability system is reformed and vessel safety is improved, greater availability of insurance at more reasonable costs will follow. However, this prospect is not a certainty, particularly in the short term, and, in the interim, organizations within the industry, particularly those which are seeking to put together mutuals or pools, may find their efforts stymied by the lack of available, adequate reinsurance. Consequently, SFA recommends that some consideration be given to establishing, via federal legislation, a reinsurance pool for the fishing industry.

As the Subcommittees are aware, the Fisheries Loan Fund, derived from fees paid by foreign fisheremen, will amount to almost $200 million by the end of this fiscal year. It has always been contemplated that these monies would be used for the benefit of the U.S. fishing industry. SFA suggests that using a limited amount of the Fisheries Loan Fund to provide initial capital for the establishment of a federal reinsurance or excess insurance program represents a wise investment of these funds. Our proposal is essentially as follows:

(a) $10 million should be withdrawn from the Fisheries Loan Fund to establish a reinsurance pool for the fishing industry.

(b) The reinsurance pool would take the place of any other reinsurance pool in effect for the domestic fishing fleet. It would provide coverage as a reinsurer or secondary level insurer over and above what initial insurance underwriters would provide. Domestic insurance companies would be able to write policies using the pool, subject to certain restrictions. The availability of the pool to cover large claims would make it more likely that insurers would provide coverage for "normal" levels of risk.

(c) Only vessels meeting certain minimum safety standards—which could be those of H.R. 4415 or H.R. 4465, coupled with voluntary industry standards developed in reliance on the NVICs—would be eligible for coverage via the reinsurance pool.

(d) In addition, only vessels whose owners have an ongoing safety program for their masters and crew members would be eligible for such coverage. In effect, this program would substitute for the mandatory training and licensing contemplated by H.R. 4407, and the market would provide the necessary incentive to participate.

(e) Any participant determined to have submitted any false claim or otherwise engaged in any fraudulent activity would be removed from the reinsurance program.

(f) Peer review committees would be established in major ports to examine claims submitted to insurers to help determine their validity and to identify any person or firm not complying with the rules and regulations of the program.

(g) An appropriate federal agency would be charged with initially certifying that industry safety standards and programs complied with certain predetermined criteria and with reviewing such standards and programs on a periodic basis to ensure that compliance is maintained.

SFA believes that this kind of a collaborative program between the industry and the government holds real promise to bring down insurance costs and enhance vessel safety. It would take advantage of the ways in which the insurance industry now operates. Moreover, public dollars would over time be replaced by private dollars (in paid-in premiums), eliminating any budgetary consequences for the federal government. We urge the Subcommittees, therefore, to give it serious consideration.

CONCLUSION

In conclusion, we want to thank the Subcommittee again for tackling the difficult issues of fishing vessel liability and safety in a constructive way. SFA is confident that sensible solutions can be devised to enhance fleet safety and reduce substantially the insurance burden on the fishing industry. The bills before the Subcommittees are a major step in this direction. SFA pledges to assist the subcommittees in any way possible in their work so that a final legislative package can be enacted this year.

Thank you. I would be pleased to answer any questions that you may have.

STATEMENT OF HON. FRANK H. MURKOWSKI, U.S. SENATOR FROM ALASKA

It's time that America learns about the nutritional benefits of seafood, and the Federal government should help get the ball rolling. Both Senator Stevens' bill, S. 2138, which I have co-sponsored, and H.R. 2935 would assist the seafood marketing groups already started, and would encourage further development of regional and national marketing programs.

While it may be in, the best interests of our nation's regional fisheries groups to control the marketing of their regional products, a national campaign can assist by promoting the health and nutritional bennefits. With consumer education by the Federal Government, the regional groups can concentrate on promoting and marketing their special seafoods.

The health benefits of seafood are becoming increasingly clear. Seafood is well know by dieticians as a high quality, low cholesterol, easily digestible food. Epidemiologists have observed lower rates of heart disease amon,g people who have high consumption of seafood. Medical researchers investigating the bio-chemical explain,ations behind the apparent benefits have identified some important differences between seafood and other meat protein sources. It now appears that the Omega-3 fatty acid found in seafood is superior to the fatty acids found in red meat in it's contribution to the prevention of heart disease. With heart disease the leading cause of death in the United States, it should be in the nation's best interest to promote seafood.

Regional marketing associations like the Alaska Seafood Marketing Association have shown that generic promotion works. Seed money from the State got the program started and industry assessments have funded the program to a level where impressive gains in sales and market penetration have been achieved. I envision, a similar development for regional marketing associations in other areas of our country.

The generic promotion of our nation's food products is not new. The beef, dairy, and egg councils are examples of aggressive national campaigns to promote specific products. It's time seafood got equal treatment, especially when the health benefits are so obvious.

STATEMENT OF THE NATIONAL COALITION FOR MARINE CONSERVATION

The National Coalition for Marine Conservation, Inc. (NCMC) is a non-profit fishery conservation organization representing salt water fishermen throughout the United States. The NCMC and its members are dedicated to the wise use and management of marine resources and the preservation of a healthy marine environment.

The NCMC has been actively involved in the conservation of Atlantic tunas since the organization was founded in 1973. This involvement included support for U.S. ratification of the International Convention for the Conservation of Atlantic Tunas in 1975. Subsequently, the NCMC worked closely with the International Commission for the Conservation of Atlantic Tunas (ICCAT) in promoting Atlantic-wide conservation measures to protect severely depleted stocks of Atlantic bluefin tuna. Frank E. Carlton, founder and president of the NCMC from 1973-1983, served as U.S. Commissioner to ICCAT from 1975 to 1983.

The NCMC supports reauthorization of the Atlantic Tunas Convention Act of 1975 and continued parucipation by the United States in ICCAT.

The principal benefit of ICCAT participation to the U.S., its fishing industries, and the fisheries utilized by American fishermen has been the stinulation and exchange of scientific and statistical information on Atlantic tunas and the tuna fisheries.

A resolution at the 1985 ICCAT Annual Meeting, introduced by the U.S. delegation, to expand this purpose and begin gathering information to assess the status of stocks of Atlantic billfishes will further enhance this benefit to the U.S., where recreational billfishing is of prime importance.

The success of ICCAT as a conservation and management entity, on the other hand, has been mixed. The fact that international organizations such as ICCAT can only encourage voluntary participation and compliance tends to ensure that recommended

conservation measures will reflect only those that are acceptable to all involved in the fishery in question, including those nations with a minimal interest in conserving the stocks for the long-term benefit of every member nation.

It was precisely this concern about the effectiveness of ICCAT as the sole tool for managing highly migratory species in the Atlantic, in particular the Commission's inability to reverse the rapid decline of Atlantic bluefin tuna populations before they bottomed out at current low levels, that led to efforts to include the management of tuna fishing activities in the U.S. 200-mile fishery conservation zone (FCZ) under the jurisdiction of the Magnuson Fishery Conservation and Management Act (MFCMA) of 1976, a move the NCMC continues to advocate.

After more than a decade of efforts to reduce overfishing of bluefin tunas, we are presently in the midst of a tentative recovery, the conbined result of agreements made through ICCAT and bilateral agreen'ents between the U S. and the Japanese. The latter agreements were possible, it should be noted, largely because of continuous pressure in Congress to include tunas in the MFCMA and give the U.S. the authority to enforce management regulations in the FCZ.

There is another, perhaps more compelling reason for bringing tunas under U.S. management jurisdiction. Marlin, sailfish and swordfish in U.S. waters do come under the management authority of the MFCMA. The management of billfishes, however, has been severeluy inhibited due to the facxt that large numbers of billfish are caught incidentally to tuna longline fishing, foreign and domestic. As long as tuna fishing operations are exempt from U.S. management jurisdiction, the Regional Fishery Management Councils assigned responsibility for managing and conserving billfish stocks will be unable to develop a management plan that fullyu addresses all the needs of the fisheries, principally the by-catch problem.

It is the NCMC's considered opinion, therefore, that continued participation in the International Commission for the Conservation of Atlantic Tunas should be complemented by extending U.S. management jurisdiction under the MFCMA to include the regulation of tubna fishing activities in U.S. waters. Management of all fishermen and fishery resources within ourn FCZ will make regulations devised by the regional councils more equitable and more acceptable to U.S. fishermen, and can only enhance the U.S. position in international management efforts.

Finally, in consideration of the 1980 amendment to the ATCA requiring 100% observer coverage on all foreign tuna longliners fishing in the FCA, the NCMC urges that this amendment be reaffirmed by Congress and strengthened to ensure that full coverage is truly achieved. We recommend that a permit to longline in the FCZ be valid only when an authorized U.S. observer is aboard. In light of the fact that Japanese fishermen longlining for bluefin tunas in the FCZ exceeded the quota allotted them by ICCAT during the most recent fishing year, it is critical to the success of ICCAT and the conservation of shared Atlantic stocks of fish that the U.S. maintain its capability to monitor foreign fishing in U.S. waters.

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